reason | 10.02

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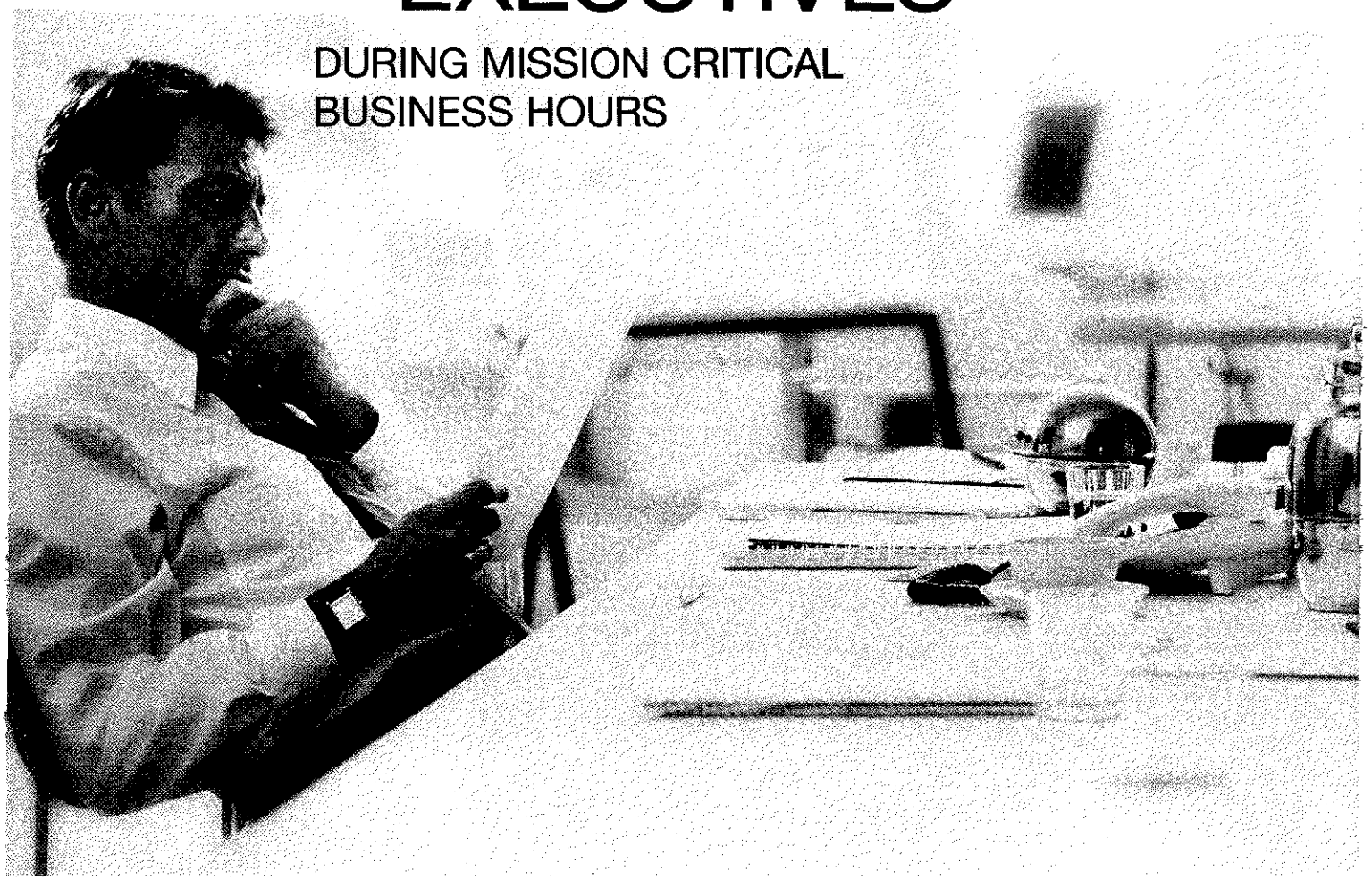

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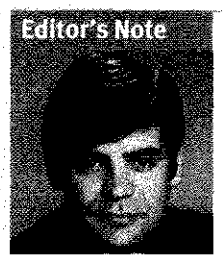

Life After 9/11

I GREW UP in the giant shadow of the World Trade Center. Born in Brooklyn, I was raised in Middletown, New Jersey—a commuter town that lost almost 50 people on 9/11. My father worked for a shipping company that was one of the center's original tenants, and I myself worked and lived in the city for several years. I now live 500 miles away from Manhattan, but like millions of Americans, I spent that horrific September morning frantically checking on friends and relatives.

It is a measure of the attacks' magnitude that virtually *everyone* I've talked with in the past year has a close connection to 9/11. Depending on how the situation in Iraq, the crisis in the Middle East, and a number of other things play out, 9/11 may well end up as the defining event of the 21st century, though perhaps not in the way we might have first expected.

I firmly agree with Nobel laureate V.S. Naipaul, who recently said, "The idea of [the terrorists'] strength is an illusion....The terrorists can fly a plane, but what they can't do is build a plane. What they can't do is build those towers." The conflict between the liberal West and reactionary elements in Islam has already been ugly, and it may continue for years or even decades. But the outcome is hardly in question: The system that delivers greater material wealth and greater personal freedom will triumph.

Yet the exact long-term effects of 9/11 are far from clear. Like everyone else, we at **reason** have spent much of the past year trying to make sense of the attacks and their aftermath. In dozens of pieces for the magazine and **reason online**, we've explored the role of anti-Western "Occidentalism" in the attacks; analyzed how 9/11 has altered American cultural identity; detailed how "vulgar" culture has liberated Islam and the West; documented the real effects of U.N. sanctions against Iraq; reaffirmed that the defining quality of liberal democracy is tolerance; and much more. (These and other stories are collected online at reason.com/terror.shtml.)

On the anniversary of 9/11, we continue our efforts in a special section titled "What Price Safety?: Security and Freedom in an Age of Fear" (page 24). Our contributors look at the ways in which 9/11 is subtly—and not so subtly—restructuring American life, especially with regard to civil liberties. In "Freedom for Safety," I suggest that by swapping the former for the latter, we are slowly undermining both. David Kopel and Michael Krause detail the abysmal track record and massive potential for abuse of increasingly popular surveillance systems that employ "facial recognition technology." In "The Forever War," Senior Editor Jacob Sullum challenges the conventional wisdom that our current state of alert should abrogate constitutional rights. Jeffrey Benner exposes pending legislation that will effectively gut the Freedom of Information Act, and Ted Galen Carpenter lays out the essential elements of an effective U.S. foreign policy. On the flip side, Associate Editor Jesse Walker reminds us of what *hasn't* changed ("Laughter in the Ruins," page 22).

These are hardly our final words on 9/11 and its impact on our lives. Indeed, even as the attacks fade in time and memory, they will continue to cast a shadow over us as long as the World Trade Center's used to be.

Nick Gillespie

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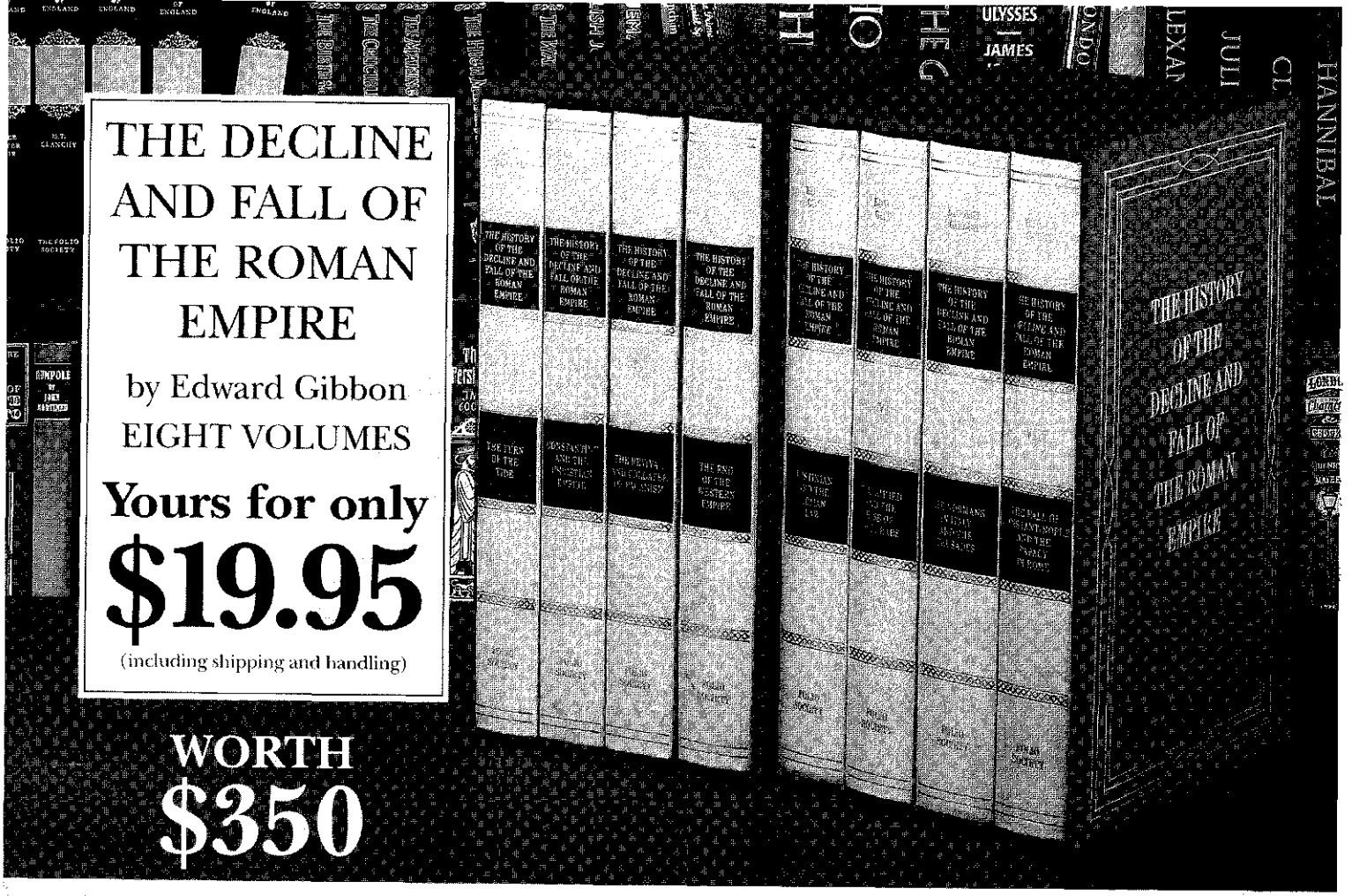

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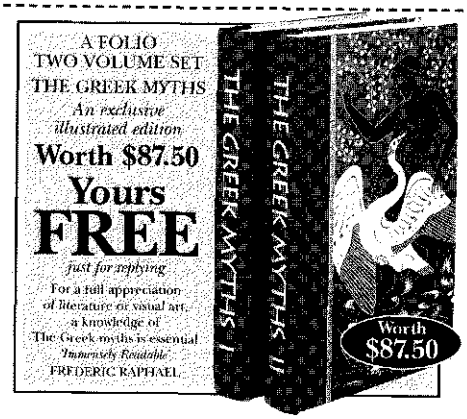

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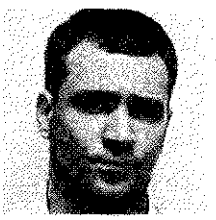
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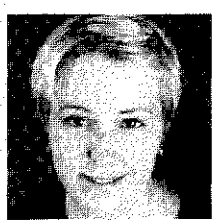
Sara Rimensnyder

In "Face the Facts" (page 26), DAVID KOPEL and MICHAEL KRAUSE detail the many flaws in facial recognition technology, the hottest new trend in post-9/11 security. They haven't yet crossed paths with any public spy cameras—"that we know of," Krause is quick to add. Kopel is the research director of the Independence Institute, a free-market-oriented think tank in Golden, Colorado, and the author of almost a dozen books. Most recently, he edited the textbook *Gun Control and Gun Rights: A Reader and a Guide* (NYU Press). Krause, a policy fellow at the institute, previously spent four years running Coast Guard drug patrols in the Caribbean. He and Kopel are frequent collaborators, often writing about drug war follies for *National Review Online*.

DAMON ROOT, who traces the rich, varied, and wonderfully tangled roots of country music in "Hidden Country" (page 56), followed his own circuitous journey to the much-maligned genre. "It all started with the rappers Run-DMC," he says, launching into a list of groups that winds up with the Orange County punk band Social Distortion. "They did a great cover of Johnny Cash," he explains. Root was raised in Tampa, Florida, but moved to New York to attend Columbia University and grab a front-row seat for the city's hardcore punk scene. He is researching a book on that topic while working as a writer and editor of music catalogs for Columbia House, the mail order CD club.

"Ann Coulter fascinates me as much as she infuriates me," says SARA RIMENSNYDER, who writes about the pundette that everybody loves to hate in "Bitch Goddess" (page 61). A Washington, D.C., native, Rimensnyder came to **reason** first as a summer intern; since 2000 she's been an assistant editor. She studied film and liberal arts at the University of Texas, and last summer her short film, *Sean Connery Golf Project*—created with another former **reason** intern, Rhys Southan—wowed audiences at Austin's South by Southwest and other indie festivals. Watch a clip at www.sxsw.com/video_archive.

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In the mid 1980's Congress abolished parole and passed harsh drug sentencing laws. Many states followed, creating a tenfold increase in the number of drug offenders incarcerated.[1]

If prisoners were able to earn earlier release:

- Incentives toward cooperation, study, and learning skills would create a safer environment for staff and prisoners alike.
- Families could be reunited earlier, with better prospects for successful reentry into society.
- High costs incarcerating drug offenders — $9.4 billion annually[2] — would be dramatically reduced.
- Inhumane prison overcrowding would be redressed. The federal system is already 31% over capacity, and is growing at more than 9% annually — the equivalent of a prison a month to keep overcrowding from growing worse.[3]
- Prisons would less likely be breeding grounds for extremists and terrorists.[4]

Isn't rewarding achievement the American Way?

Kevin B. Zeese, President, Common Sense for Drug Policy
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[1] Beck Alan. J. Prison and Jail Inmates at Midyear 1999. Washington, DC: Department of Justice, Bureau of Justice Statistics, April, 2000; Maguire, Kathleen and Ann. L. Pastore, editors Sourcebook of Criminal Justice Statistics, 1998. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 1998.
[2] Bureau of Justice Statistics, Profile of Jail Inmates 1996 (Washington, DC: US Government Printing Office, April 1996), pp. 1, 4; Bureau of Justice Statistics, Prisoners in 1996 (Washington, DC: US Government Printing Office, 1997), pp. 10-11; Criminal Justice Institute, Inc.: Camp, George M. and Camp, Camille Graham. The Corrections Yearbook, 1998. Middletown, Connecticut: Criminal Justice Institute, 1999.
[3] US Dept of Justice, An analysis of non-violent drug offenders with minimal criminal histories, DOJ executive summary, Feb 4, 1994. "Since the end of 1988, when the full impact of these new laws was realized, the prison population has grown by an average of over 650 inmates per month, or enough to fill one medium size institution with each new month." (p. 13)
[4] Cal Thomas, "Radical Recruiting in US Prisons", Lancaster New Era, June 22, 2002.

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The Amazing Ashcroft

Brian Doherty's "Ashcroft's Power Grab" (June) seemed more like an assault on the attorney general's character than an examination of whether he has compromised civil rights. I agree that the USA PATRIOT Act and the ever expanding police state is cause for grave concern. But Doherty doesn't offer a better solution.

Our nation's security has been penetrated. We now have two options. The first is to simply pick up the pieces each time everything blows up. The second is to take some pre-emptive action and try to deny the bad guys their opportunity. The best measures would be adequate tracking of foreign nationals in the U.S., maintenance of military and intelligence capabilities, and a more solid commitment to national defense. Why didn't Doherty write about this?

Farrar Puckett
Manzanita, OR

If John Ashcroft were a true conservative, he'd respect states' rights and limited powers for the federal government. Yet ever since taking office, he's used his authority to increase those powers. In doing so, he has revealed conservatives' hypocrisy. They say they want to limit government and respect personal liberty but instead they act to increase government's power to advance their own narrow agenda.

Stephen V. Gilmore
Charlotte, NC

The violence John Ashcroft has done to the Constitution and to civil liberties—and the further potential danger he poses to both—cry out for illumination and coherent discussion. Sadly, Brian Doherty's sophomoric screed, which focuses almost entirely on the irrelevant topic of the unpopularity of Ashcroft's religious beliefs in leftist media and academic circles, is neither illuminating nor terribly coherent.

Robert J. Stepp
Monument, CO

I have come to expect articles in **reason** to be of the highest quality. Imagine my surprise when I read "Ashcroft's Power Grab." I expected an erudite analysis of the legal decisions Ashcroft made that are unpopular with libertarians. What I got was a misrepresentation of facts, personal slander that in places degenerated into hysterics, slippery logic, and a distinct lack of hard information.

Doherty's summary of Ashcroft's career until he became attorney general is particularly deceptive. He went from a virtual nobody to the highest legal officer in the land, and Doherty thinks he's a loser?

Mark Alliksaar
Scarborough, Ontario
Canada

I could perhaps tolerate a little bit of mixed-up editorial belching, but gee whiz, Brian Doherty: "cornpone hokum" in Branson, Missouri, that "difficult little state." As a native of the area (not an Assembler), I have to defend it.

That quadrant of Missouri, you should know, is the Earth's hottest spot of devotion to duty-honor-God-and-country (choose your order). That may seem hopelessly naive to those enthralled with the Upper East Side, but consider who is more likely to populate the Special Forces. And nowhere is devotion to individual liberty stronger—it's the core of the Ozarker's DNA.

Jack Robinson
Via e-mail

Brian Doherty replies: In response to Robert Stepp, my piece was intended as a profile of the attorney general's career, not merely a discussion of his

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civil liberties record (though that was covered too, particularly in the sidebar). In discussing Ashcroft's career and character and considering what to expect from him in the future, his religion and the strongly negative reaction of many highly influential Americans to his beliefs are important. Showing respect for a public figure's beliefs does not mean one has to ignore them.

To Mark Alliksaar: My negative assessment of Ashcroft's career is certainly contrarian, but I stand behind it. To understand that assessment, one must look beyond his résumé and consider his defeats—in particular, his uniquely embarrassing loss to a dead man—as well as his victories. You also need to consider what he managed to do with his victories, which is essentially nothing.

And to Jack Robinson: If Missouri is the land of "devotion to individual liberty," then I fear the attorney general is not a true-blue son of his home state.

Election Spoils

I am writing to identify myself as the main source for Matt Welch's behind-the-scenes report on election night in his article "Speaking Lies to Power: Ralph Nader Fudges the Truth Just Like a Real Politician" (May). There are serious inaccuracies in this report, a keystone for Welch's whole story since it is the main piece of new information he presents.

The most serious error is the claim that I (and Aaron Smith, who was assisting me that evening) were acting "on the orders of campaign headquarters." If anything, the problem was that we had too little guidance from higher-ups in the Nader organization. In particular, we were never asked for the poll calculations that Welch considered deceptive. I state unequivocally that the "manipulation" discussed by Welch was made entirely on my own initiative.

It is also patently untrue that I was engaged in "a far more flagrant manipulation of the truth" than allegedly choosing poll numbers selectively. In fact, what I discussed doing, in Welch's presence, was the almost identical exercise of selectively choosing poll numbers for our calculations, a practice which I think is defensible in a situation where other players are expected to engage in similar manipulations. It is important to note that, although I did discuss the possibility of choosing poll data to spin the numbers in one direction or another, the campaign never released calculations based on hand-picked poll numbers. The real point, however, is not that what we did is defensible but that it was grossly exaggerated by Welch.

There are other important errors in the paragraph. We were not "frantically devising multiple formulas" to prove that Nader did not spoil the election, "no matter what." There was only one "spoiling" formula, which was constructed with scrupulous honesty, and this formula did show that Nader votes cost Gore the election. Still, it is an open question how different the election might have been without Nader.

I have no reason to doubt that Welch told me what was going on was "shocking," and that I failed to clear up his misunderstandings at that time. Had I known that this article would be the result, I might have taken more time. It is a shame that Welch did not think to contact me before publishing his seriously flawed account.

Jonathan Dushoff
Via e-mail

Matt Welch replies: I have a lot of respect for Jonathan Dushoff—he was the most math-oriented person I encountered on the Nader campaign—so his remarks should be taken seriously. He is right, for instance, to say that I exaggerated when I said his formula was devised to show Nader didn't spoil the election "no matter what." I will also grant him the point that it was a single (albeit flexible) formula, rather than several. My bad on both counts.

Dushoff denies vehemently that "choosing poll data to spin the numbers" (his words) represents a "flagrant manipulation of the truth" (mine). I respectfully beg to differ, especially given the context of a candidate, campaign, and movement that wrapped themselves in the conceit of "truth telling." Dushoff says it's defensible in a situation (the election) where such manipulations are "expected." But Nader's campaign biography was subtitled "How to Tell the Truth and Still Run for President"; my subtitle underscores the point that "Ralph Nader Fudges the Truth Just Like a Real Politician."

Dushoff and I have very different memories and notes from our election night conversation. Though it flatly contradicts my reporting of the time, his assertion that he acted alone in contemplating interpretative electoral data should also be taken seriously. It also has zero effect on my thesis: Ralph Nader, despite his rhetoric of purity, uses facts selectively and dishonestly to suit his needs.

Correction: R.J. Pliskow, M.D., photographed author Tevi Troy for "POTUS and the Brain" (August).

reason news

We are pleased to announce that two **reason online** pieces recently received awards from the Los Angeles Press Club. Catherine Seipp's "Working Women of the World, Unite" took top honors as Best Online Commentary. Matt Welch's "The Libertine Right" won second place in the same category.

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Noriega's alma mater; municipal money pits; history's dustbins; policing medical records; trashy dream houses; taxing smokes; and bashing lawyers

Intimidating homeschoolers

Illegal Education?

Brian Doherty

SANDRA AND DAVID Sorensen, were recently threatened with prosecution by the San Juan Unified School District under California truancy statutes for homeschooling their 10-year-old son. But as often happens in such cases, the case was dropped before getting to court. So why do local school boards keep trying?

California's Department of Education maintains that you can't homeschool your children unless you hold credentials as a tutor. Carolyn Pirillo, the department's deputy general counsel, says, "If everyone in the state without teaching credentials could say, 'I'm a private school,' there would be no standard whatsoever. It would be tantamount to repealing compulsory attendance law."

The blithe method that Pirillo refers to is the one followed by most California homeschoolers. State law allows three options for kids to abandon public schools: enrollment in a private school, which requires filing paperwork known as an R-4 affidavit; participation in an independent study program through a public or private school; or tutoring.

The R-4 affidavit offers a loophole big enough to drive a homeschool through. Nothing in the law prohibits a home from defining itself as a private school, homeschoolers insist. Unlike with tutoring, the teachers for private schools need not have official certification; they must merely be "capable of teaching."

But if homeschooling is illegal in California, why *does* it seem that no one is ever successfully prosecuted for it? Pirillo suggests that since trial courts don't have to publish their opinions, it's possible that people are being prosecuted all the time.

Maybe, but it's unlikely. Homeschoolers are a feisty, well-organized group. If California were rife with successful homeschool prosecutions that generated no appeals, groups like the National Home School Legal Defense Fund and the California Homeschool Network (CHN) would know about it. Neither group has heard of such cases.

Karen Taylor of CHN says she gets calls almost every day from distraught parents who hear, often when requesting an R-4

affidavit, that homeschooling is verboten. One lawyer who has defended homeschoolers against threatened legal action speculates that local district attorneys suspect the state's legal arguments against homeschooling won't hold up in court. But administrators can still intimidate parents out of the choice without taking official action. ▮

Slamming Noriega's alma mater

Persistent Protesters

Jeremy Lott

THE SCHOOL OF the Americas (SOA), recently renamed the

25 years ago in reason

"Since the case for foreign aid is regarded as axiomatic, either progress or lack of progress can be used to argue for more—the first as evidence of success, the second as evidence that more must always be done."

—P.T. Bauer, "Foreign Aid Hasn't Worked ...And It Never Will"

"In a tribal society, there are no individuals as such and thus no individual rights."

—Jeffrey St. John, "Washington Witch Doctors"

"The great advance of western political philosophy, at least since the time of Vlad the Impaler, has been the acceptance of the notion that society is better off being oppressed by a single great criminal so powerful he cannot be resisted, than to be oppressed by a normal assortment of petty crooks who could be kept off with a vicious dog."

—Davis E. Keeler, "Support Your Local Counterfeiter"

"Waste is energy consumed by people who vote incorrectly."

—Alan Reynolds, "The War on Energy"

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Western Hemisphere Institute for Security Cooperation, is infamous for training dictators such as Manuel Noriega. But it may as well be regarded as an ongoing internship program for American political protesters, who have been demonstrating against the school for 15 years.

In July, 37 defendants were tried in federal court for trespassing on Georgia's Fort Benning as part of the annual protest of the U.S. government-funded military school. The institute is dedicated to establishing links with the elite of Central and South American countries by training them in the art of soldiering, but protesters charge that it is a "School of the Assassins," teaching the latest techniques in violent repression.

Receiving sentences ranging from six months in jail to fines, the trespassers joined over 70 past protesters who have served more than 40 combined years since the protest's inception, according to the organization School of the Americas Watch. They are also part of a much larger cohort of people simply arrested for trespassing but not charged. Since 1997 Fort Benning police have detained over 2,300 protesters.

Municipal money pits

Conventional Wisdom

John Pike

THE 516,000-SQUARE-foot Boston Convention & Exhibition Center cost almost $1 billion to build—and will likely end up a bust.

Consultants had predicted the new center, scheduled to open in late 2004, would host 38 conventions in its first year. That number was expected to climb to about 50 events annually, drawing more business for hotels, restaurants, taxis, and shops.

But with the center's opening just two years away, only 18 shows are booked through 2013, with just three scheduled before 2006. It appears the economic fruit promised by Massachusetts politicians of every stripe is dying on the vine.

"Boston is building a convention center with no demand," says Charles Chieppo of Boston's Pioneer Institute, a free market think tank. The center will be competing for clients with Washington, Baltimore, and Philadelphia, among other cities. "The market for convention hall space is disappearing at the same time its supply nationally is exploding," Chieppo notes. Because of advances in technology such as Web conferencing, he says, businesses are sending fewer employees to trade shows.

Granted, the September 11 attacks and a mild recession have affected Boston's bookings. But numerous cities across America have recently built convention centers, and almost all of them are performing below expectations.

The Charlotte Convention Center in North Carolina, which opened in 1995, has produced one-third the number of predicted hotel nights—fewer than the center it replaced, says Chieppo. Consultants predicted that the 1996 doubling of the size of the Baltimore Convention Center would generate 50 percent more hotel stays; so far, it has produced about the same number. Similar weak outcomes have been seen in Minneapolis, St. Louis, Los Angeles, Houston, Sacramento, and elsewhere.

So why do consultants consistently overestimate convention center usage? Chieppo calls the decision for a government agency to build a convention center "a politically unstoppable situation." Any proposed convention center, he says, is a "free subsidy to the hospitality and tourism industries, and the big labor that wants them to build it." As a result, studies that are commissioned to determine whether a center should be built "always say, 'Build it.'"

Anti-rave legislation

Party Poopers

Jacob Sullum

YOU THOUGHT IT was bad when you heard that you could lose your house if your son planted a few marijuana seeds in the corner of your yard. That was nothing. Under a Senate bill introduced last summer, you could go to prison for letting him hold a party where someone passes around a joint.

The Reducing Americans' Vulnerability to Ecstasy (RAVE) Act of 2002 would broaden a federal law aimed at crackhouses so it can be used more easily against raves. The bill would make it a federal crime, punishable by a fine of up to $500,000 and a prison term of up to 20 years, to "manage or control any place" and "knowingly and intentionally...make [it] available for use, with or without compensation, for the purpose of unlawfully... using a controlled substance."

The RAVE Act—which was approved without amendment by the Senate Judiciary Committee on June 27, nine days after it was introduced—is worded so broadly that its chilling effect could extend far beyond raves. "'Knowingly' and 'for the purpose of' are too undefined to provide adequate protection to innocent businessmen and women," argues the Drug Policy Alliance. "Property owners may be too afraid to rent or lease their property to groups holding hemp festivals, all-night dance parties, rock concerts, or any other event rightly or wrongly perceived as attracting drug users."

The deterrent would be enhanced by the bill's provision for civil fines of $250,000 or more. That option would enable the government to bankrupt property owners without having to prove its case beyond a reasonable doubt.

The bill also would have the perverse effect of discouraging event sponsors from taking precautions that could be viewed as evidence that they knew attendees would be using drugs, such as providing bottled water and chill-out rooms for »

Quotes

"It appears we are being transformed from an information society to an informant society."

—Rep. Dennis Kucinich (D-Ohio), commenting on President Bush's planned TIPS program, which would train 1 million workers to be domestic spies, on workingforchange.com, June 28

"When I start getting calls from mainstream reporters, the markets are near a bottom. I just got a call from an NPR reporter. We may be getting close..."

—Doug Henwood, editor of the *Left Business Observer*, on the LBO-Talk e-mail list, July 17

Sources

What should replace the World Trade Center? To help answer that question, New York officials convened 5,000 Americans last July in what was billed as the world's "largest town meeting."

But a much larger referendum on the issue was already taking place online, dating back to September 2001. Dozens of homegrown sites—for example, www.rememberwtc.org—weigh in on the discussion. One architect has offered drawings of two new towers that look suspiciously like twin Mormon temples (members.aol.com/votetorebuild/images/newworldtrade.jpg). **reason**'s Ron Bailey's take on the reconstruction is at reason.com/rb/rb052202.shtml.

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Brickbats

Stephen Laing bought a cabin on five wooded acres near Leyden, Massachusetts. It didn't bother him that the cabin didn't have running water or electricity; he wanted to live like Henry David Thoreau. But the Leyden Board of Health apparently doesn't share the author's belief that "that government is best which governs least." It forced Laing to remove his outhouse. He put in a composting toilet, but that still didn't satisfy the board. It has gone to court to force him to install a septic tank, a pressurized water system, and electricity.

The 3,000 delegates attending the U.N. World Food Summit, dedicated to fighting global hunger, launched their conference with a lunch of foie gras, lobster, and goose stuffed with olives, followed by fruit compote.

Residents of Ft. Lauderdale, Florida, would be wise to register their bicycles. City officials say the registration helps reduce bicycle thefts and makes it easier to return stolen bikes. In case that doesn't convince bikers, the city has added an extra incentive: If police catch a biker without the decal showing he's paid his registration fee, they seize the bike and give it to the homeless.

Norway's Labor Market Administration has been looking for a few good women—10 to be exact. There's just one catch: They must be willing to work nude. The government employment agency has been listing ads on behalf of a firm seeking strippers and nude models. The ads ask prospective employees to submit photos of themselves in swimsuits or underwear.

Christine Vetter is looking at five years in prison and a $250,000 fine. Her crime? Mailing dirty underwear. The 21-year-old Clemson University student ran a Web site where she hawked her used undies. She made about $9,000 over a 16-month period before the Postal Service discovered her business and busted her on charges of "mailing indecent and filthy substances." Vetter has pleaded guilty.

Henri Dunoyer, mayor of the posh resort town of La Grand-Motte in southern France, has ordered police to stop people leaving the beach in swimwear for an odor check. Anyone found to be too smelly will be ordered to cover up or pay a fine. He says he's tired of foul-smelling foreign tourists.

An Iranian court has barred Mohammad Khordadian from leaving Iran for 10 years, preventing him from returning to his life as a Los Angeles–based dance instructor. He had been visiting his ailing father. The court has also barred Khordadian, who carries a U.S. passport, from giving dance classes for life and from attending public celebrations or weddings of nonrelatives for three years. Khordadian probably was singled out because U.S.-based Persian TV programs have made him a celebrity in Iran.

The Kelowna Heat, a Canadian teenage girls' softball team, had everything it needed to play at a tournament in Spokane, Washington—everything except government-issued photo IDs. When U.S. border officials found the team had only school photo IDs and social insurance cards, the border guards took no chances and sent the potential terrorists packing.

Charles Oliver

ravers to protect against overheating and dehydration. "This bill may make business owners too afraid to implement such harm-reduction measures," says the Drug Policy Alliance, "and the safety of our kids would suffer."

Recycling cutbacks

History's Dustbin

Jeremy Lott

TO HELP NARROW an ever-widening budget deficit, New York Mayor Michael Bloomberg has scaled back his city's curbside recycling program. On July 1 the city stopped collecting plastics and glass. Bloomberg says those collections won't resume until the city can figure out how to do so without hemorrhaging taxpayer cash. The recycling program has cost Big Apple taxpayers as much as half a billion dollars during the last decade.

Bloomberg had wanted to discontinue the collection of metals as well but ultimately compromised with city council members who wanted to increase the resources devoted to recycling. Led by Michael McMahon, several council members proposed that the city add a surcharge to bottles of noncarbonated drinks and start collecting unclaimed deposits, which beverage makers currently get to keep. The estimated $100 million a year generated by these changes would have gone to create a bureaucracy charged with finding a way to make recycling profitable.

New York Times columnist John Tierney, whose protracted war against recycling may have played some part in the mayor's decision to cut it back, slyly called the pro-recycling council members "politicians who do not run from trouble." Regarding the proposed bureaucracy, Tierney asked readers to "imagine what a...group of political hacks could do with a business that's unprofitable to begin with."

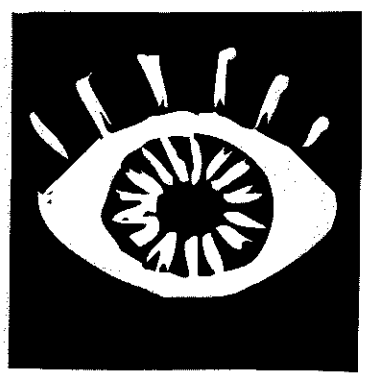
Previously the anti-recycling movement, which questions the cost-effectiveness of the practice, had caught on mostly in smaller cities and counties, such as Chattanooga, Tennessee. Now recycling activists worry that New York's change of heart might help spread the disenchantment to more-cosmopolitan areas.

Nosy neighbors

I Spy

Brian Doherty

THIS SUMMER THE public learned of the latest wrinkle in President Bush's Citizen Corps: a program known as the Terrorism Information and Prevention System, or Operation TIPS. The initial plan was, in essence, to deputize 1 million Americans as government informants, with the



intention of expanding the program next year.

The announcement names "American truckers, letter carriers, train conductors, ship captains, utility employees, and others" as potential members of this proud army of busybodies. A *Washington Times* story on the program pointed out that some of these people have jobs that "allow them access to private homes."

In reaction to such fears, the Justice Department later announced that the TIPS "hotline number will not be shared with any workers, including postal and utility workers, whose work puts them in contact with homes and private property."

The Teamsters and Longshoremen's unions, meanwhile, are still honored and excited to participate. But Congress was less enthusiastic. As of late July, House Majority Leader Dick Armey (R-Texas) had excised TIPS from a committee version of

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Balance Sheet

Jeff A. Taylor

Lap Land

Clark County, Nevada, has decided not to outlaw lap dances at local strip clubs. Local officials started with a rule that dancers could get no closer than six feet to their fans. But they reversed their position after hearing that such sedate offerings would drive business to nearby, lap-dance-friendly Las Vegas.

British Deal

Great Britain essentially decriminalizes pot use and sees a minor national drop in crime. In South London, robberies and muggings are down 50 percent.

Reparation Legislation

The Houston City Council votes 8-7 against legislation calling for a national commission on slave reparations. Meanwhile, in cities that have passed such legislation, anti-reparations activists are taking to the streets in protest.

Musical Hacks

After the Recording Industry Association of America backs a bill that would, in effect, legalize the hacking of file trading networks, the RIAA's own Web site gets the same treatment and goes down for a few days. Even Hollywood is afraid the pro-hack bill goes too far and pulls its support.

Band Ban

Rep. Billy Tauzin (R-La.) wants the Federal Communications Commission to make sure the Pentagon isn't just making up concerns that new ultra-wideband devices will intrude on military frequencies. These devices could make small wireless networks very fast and easy to set up.

San Francisco Treat

San Francisco may get into the pot growing business as frustration grows with the federal crackdown on medicinal marijuana co-ops. A ballot measure, if passed, would give the city the power to grow weed.

Bladder Control

The Supreme Court clears the way for making high school even more humiliating by giving the OK to drug test any student who wants to join any club or activity. Justice Antonin Scalia suggests that the alternative is "a bunch of druggies who are orderly in class." Huh?

Net Bad

Both Hawaii and Washington state tap public coffers to build high-speed Net systems in hopes that someone will someday need them. Around $400 million will be spent in Hawaii. Small utilities in Washington are looking at piecemeal projects of $5 million each.

Grease Monkeying

The Senate gets under your hood with the intent to force carmakers to release all computerized data on engines. Independent car mechanics say makers have "secret" codes they share only with dealers. The car guys say that isn't true and that forcing them to release all data will just result in cheap knockoffs.

Deathly Superstition

The starving millions of Zimbabwe won't get thousands of tons of U.S. food aid. The African nation's government doesn't want any genetically modified corn in the country.

Teachers' Dirty Looks

The National Research Council addresses the shortage of science and math teachers in the U.S. with a make-work plan for educrats. Even full Ph.D.s in the field should get two more years of training on how to teach, a report recommends.

Lights Out

Chronic blackouts have New Delhi residents sleeping in their cool cars, which still have AC, as India's power grid slowly unravels. Rampant corruption in the state-run utilities is the primary cause.

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Data

Taxing Smokes

Jacob Sullum

In July, when Mayor Michael Bloomberg signed a bill raising New York City's cigarette tax to $1.50 a pack, he said he didn't really want the money. He just wanted to "save people's lives."

"If it were totally up to me," he said, "I would raise the cigarette tax so high the revenues from it would go to zero."

By equating zero revenue with zero smoking, Bloomberg implied that New Yorkers who refuse to pay the highest cigarette taxes in the country—$3.39, including the state and federal levies—will have no choice but to quit. In the real world, however, smokers have alternatives.

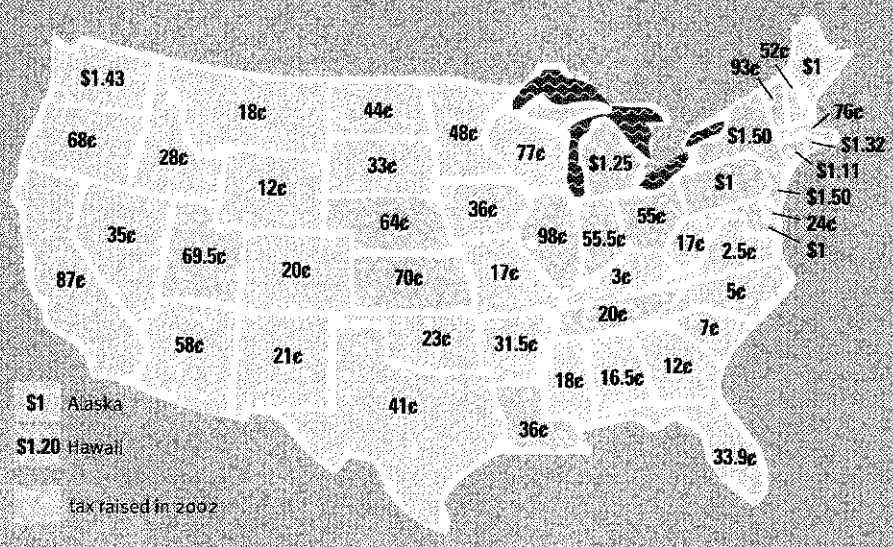
Rather than pay $7.25 for a pack of Camels, for instance, they can buy them online for $2.70. Or they can buy them untaxed in New York, courtesy of smugglers who transport cigarettes from low-tax states in the South to high-tax states in the Northeast. The cigarette tax in New York City is now more than 100 times the tax in Virginia.

Last year the FBI arrested 17 people accused of smuggling cigarettes from North Carolina to raise money for the terrorist group Hezbollah. The government said the ring was earning as much as $10,000 with each van load.

As of July, 17 states had raised their cigarette taxes this year, multiplying the potential profits for terrorists and other unsavory characters.

State Cigarette Tax Rates

(per pack as of October 1, 2002, based on legislation enacted in July or earlier)



Source: Federation of Tax Administrators

› the Homeland Security bill. The Justice Department announced that it still intended to continue with its plan.

The program probably would bury bureaucrats in thousands of vague, frightened (or malicious), meaningless reports that sully the reputations of the innocent. Whether or not the program ultimately goes into effect, the Justice Department's initial enthusiasm for it, even in the face of public and congressional opposition, is a frightening sign for the future of civil liberties. ▯

Medical records and the police

Privacy Test

Sara Rimensnyder

IN A SMALL town, they say, everyone knows your business. A county judge in Iowa is pushing that tendency to an extreme by requisitioning medical information from a local women's health clinic.

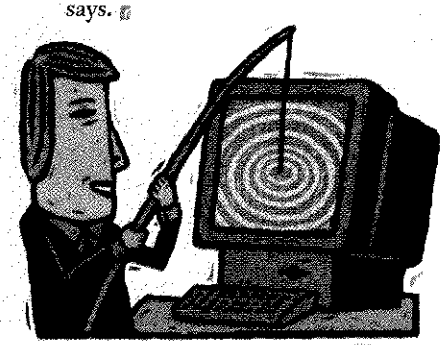
The trouble in Storm Lake, a town of about 10,000 in Buena Vista County, started in late May when an abandoned newborn, possibly born prematurely, was left for dead in a local recycling center. With the police department at a loss for leads, County Attorney Phil Havens sought access to the names and addresses of every woman who took a pregnancy test at the town's Planned Parenthood clinic during a nine-month period. Once authorities had the names, they would check that each woman gave birth to a living infant; when this wasn't possible, they'd question the mothers.

After some legal back and forth between Planned Parenthood and the courts, Judge Frank Nelson ordered the clinic to hand over the information by August 17 or risk being charged with contempt. Jill June, the president of Planned Parenthood of Greater Iowa, refuses to compromise her patients' privacy. "What they've asked us to do is wrong," she says. "It violates the laws of Iowa, it violates the confidentiality and trust these women place in us. As much as we'd like to help with the investigation, we simply cannot cooperate."

Havens, the county attorney, who did not return calls for comment, argues that pregnancy test information is not protected by doctor-patient privilege laws because the test could be performed and interpreted by nonmedical personnel. But Judge Nelson took a slightly different tack, according to Randall Wilson, legal director of the local American Civil Liberties Union. In response to Planned Parenthood's assertion of doctor-patient privilege, "he cited a case suggesting that privilege only applies when you're in court."

Wilson is concerned about the precedent that would be set if the judge's order stands. "It would say that anytime officials want to go on a fishing expedition in medical records, on a hunch or just because under the law of percentages it might sometimes result in finding evidence, they can," he says. "It would basically wipe out any expectation of privacy in medical records."

June doesn't plan to allow that to happen. "It is our intention to pursue every legal avenue available to us, no matter how long it takes or what it costs," she says. ▯



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Home and garbage

Trashy Dream Houses

Sara Rimensnyder

In Huntsville, Texas, someone may soon be living in a house built to look like a boot. Or a mushroom. Or tap dance legend Gregory Hines. And the house will be made out of trash. Literally.

These odd designs are just two of the homes Dan Phillips—a maverick designer, antiques refinisher, former college dance instructor, and exuberant armchair philosopher—plans to build from recycled materials and then sell cheaply to families who couldn't otherwise afford homes. He has already built two relatively traditional homes from trash, rescuing building supplies and waste before they got to the landfill. He'll finish two more this year and has plans to build four in 2003.

"What I'm trying to do is prove that a builder could make a reasonable living building for the poor," says Phillips. For now, he has been putting all of his profit into growing his business, but he's determined eventually to support himself by building the homes full time.

Though Phillips' theme houses will certainly bring whimsy to a town best known as the home of the Lone Star State's death chamber, his choice of designs was pragmatic (except the Gregory Hines house, which he calls "a personal tribute"). The town has a boot company and a mushroom plant, and Phillips thinks he might be able to convince them to supply a $30,000 loan or gift as interim financing for one of his trashy masterpieces.

As unlikely as it may sound, a similar pitch worked on Budweiser, which funded Phillips' second trash building, fondly referred to by Huntsville residents as "the Budweiser House." (Says Phillips: "I love that I built a Bud house in the middle of the Baptist belt and that people are happy about it.") No, this house isn't shaped like a can of beer; it's a boutique cottage, complete with stained glass windows, Texas stars, a turret made out of the butt ends of two-by-four boards, and quite a few cleverly placed Bud logos. Photos can be viewed online at www.phoenixcommotion.com.

"The sources for material range from wholesalers and retailers to garage sale leftovers and individuals," says Phillips. "And there still is such a thing as scavenging on the sly—sneaking into dumpsters for the great find."

Phillips' ideas are catching on. In Muskogee, Oklahoma, custom builder Lisa Coleman has just started her first home from all-recycled materials. "Muskogee has a horrible need for affordable housing," she says. After trying and failing to get city funds, she decided to follow Phillips' method, which cuts costs not just with free materials but by training unskilled, minimum wage laborers. "I am a ways off from duplicating exactly what he is doing," she says, "but I'm getting closer."

Courtesy of Dan Phillips

Bashing Lawyers

Sara Rimensnyder

Catherine Crier

Catherine Crier, host of Court TV's engaging *Catherine Crier Live*, may be glamming it up now on the small screen, but she spent years in real courts without a makeup crew in sight. Before her TV career, Crier was a civil litigation attorney, an assistant district attorney, and eventually the youngest state judge ever elected in her native Texas.

"The most ridiculous case I saw while on the bench involved a man who was representing himself and suing for malpractice over a penile implant," she says, pausing before whipping out the punch line. "His claim was that it wasn't as large as he remembered."

Crier, who received her law degree at Dallas' Southern Methodist University, has also anchored shows on CNN, Fox News, and ABC. Frustration with frivolous lawsuits—don't tell Mr. Implant—helped inspire her new book, *The Case Against Lawyers: How Lawyers, Politicians, and Bureaucrats Have Turned the Law into an Instrument of Tyranny—And What We As Citizens Have to Do about It* (Broadway). Assistant Editor Sara Rimensnyder spoke with Crier in late July.

Q: What's the worst problem when it comes to lawyers?

A: Contingency fees. When lawyers take a percentage of the recovery as payment, an arrangement that now permeates the industry, they become financial partners in litigation. Where is the impetus not to push a frivolous lawsuit?

Q: And when it comes to politicians and bureaucrats?

A: The revolving door between industry and political office, including staffing, is very damaging. Also, the use of legislation to give favors is commonplace, particularly with the Internal Revenue Service and tax laws.

Q: You write that the problem with criminal justice today is "the very laws we enact and the manner in which they're implemented."

A: We've lost sight of writing a law with a very specific purpose, determining whether it accomplishes that goal, and enforcing it appropriately if it does. In the court system, selective enforcement occurs all the time. White collar criminals can hurt hundreds of thousands of people and they are rarely punished, while a garage burglar will get plenty of attention in our system.

Q: What should be our first step toward reining in the law?

A: In civil litigation, we need to return to the standard of the "reasonable man." Right now, we don't hear, "Did I behave reasonably at the office?" We hear, "I've got obsessive compulsive disorder and I behave in very bizarre ways and deserve to be accommodated." Employers should not have to tolerate unreasonable behavior. In criminal justice, certain laws have failed. Drug laws are the primary example. They haven't diminished drug use, yet we continue to elevate punishment and spend money to accomplish an unachievable goal.

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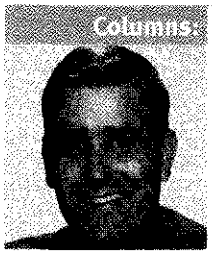

Making a Killing in Business

When crime pays, there will be plenty of criminals.

THE REASON THERE are so many murders in Washington, D.C., is that people can get away with it. In the 1990s D.C. police caught fewer than four people for every 10 murders in the District. At the end of 2000, two in three individuals who killed in 1999 were free. Considering these odds, killing for some becomes simply another dispute resolution tool. There's a similar explanation for America's outrage du jour: the market-tumbling revelation that during much of the 1990s a few corporate chieftains pushed the bounds of honesty in financial reporting.

Is the comparison between executives and murderers too harsh? Downgrade it to thieves. The reason someone burglarized my apartment in San Francisco several years ago is that he figured he would get away with it. In 2000 a dot-com executive defrauded me of $2,000 in article fees for the same reason. Both thieves were right.

Even when they aren't the same person, chief financial officers, thieves, and masters of the short con are cut from the same cloth: the cloth of humanity. And all human beings respond to incentives. Increase the cost of something, and there will be less of it. Lower the cost, and there will be more.

The inverse holds for rewards. Until recently the rewards for massaging financial data, structuring finance to make debt disappear from books, and engaging in sham trades to increase revenue were huge. The companies that facilitated the deals—Citibank, Merrill Lynch, J.P. Morgan—pocketed millions in fees, with the promise of millions more. Executives received millions in compensation for their companies' superior performance.

Just as important, the punishment for not playing could be devastating. "The equity market put enormous pressure on management to manufacture good earnings," says Robert Barbera, chief economist with Hoenig & Company. "That's not to say that fraud is a reasonable option. It simply describes the system that would push many in the direction of creative accounting." The system, like my open window, was irresistible for some.

As one who believes in both the morality and the efficiency of the free market, I think it's important to recognize that markets aren't pristine institutions handed down by God that make people fair and trustworthy. They are systems framed by rules that foster cooperation among individuals and organizations that are seeking to maximize their happiness, which usually translates into money. Over the long term, markets reward honesty. Over shorter periods, scammers can do very well.

The recent business scandals remind us that two forces police markets. One is cops or regulators, who seek compliance with written rules and punish those who break them. The other, more powerful force is customers, who withdraw their money from companies in which they lose confidence. This phenomenon is obvious in financial markets, where companies like Enron and WorldCom are severely punished by investors. But it also happens in consumer markets. Who do you think the manufacturer of Tylenol feared more when it was discovered in 1982 that someone had laced its product with cyanide: regulators or customers?

If either of these forces slacks off, one can expect more people to bend and even break rules. That's what happened in the late stages of the boom. Investors not only failed to scrutinize business plans or read the footnotes in financial statements, they also demanded perfect perfor-

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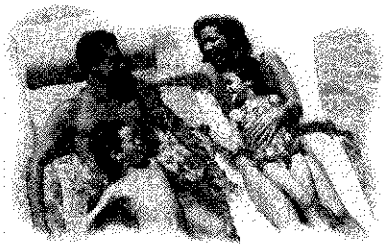

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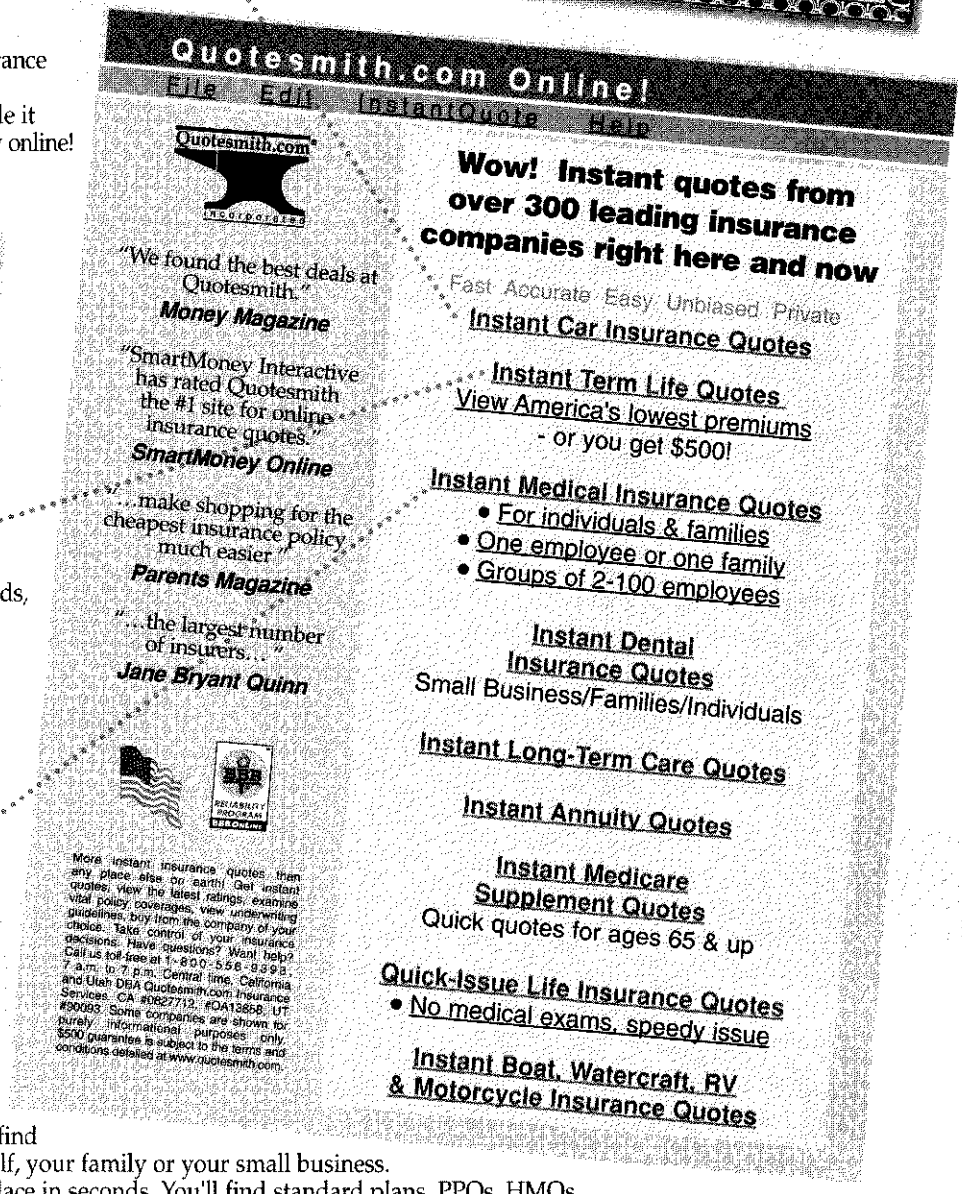
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mance, at least on paper. Many investors were lusting after growth stocks at any price. Not all investors and analysts were fooled; there were plenty of people who sat out the runup. It doesn't take a genius, after all, to know that when someone goes on TV and says a stock will double they are just talking smack, and it's time to sell off one's position in tulips.

But there were also plenty of people who chased the returns. Many lost big. No one likes to lose money, and when people do they usually want to blame someone else. Since the market peaked in early 2000, its decline has wiped out $7 trillion, $70,000 per household, which is a lot of blame to allocate.

All this brings us back to Washington, where, in late July, Congress passed and the president signed a corporate reform package. Like much of what passes for work in D.C., the spectacle featured plenty of absurdities. To hear a lecture on proper accounting from Congress—whose favorite financial tool is shuffling liabilities off its balance sheet, in the form of either unfunded mandates or unfunded promises such as Social Security—is a joke.

Our first MBA president declares, "The business pages of American newspapers should not read like a scandal sheet." But like Congress on financial management, Catholic priests on sexual morality, or Jimmy Carter on military tactics, George W. Bush has a credibility problem. The only thing remarkable about his business career was his ability to parlay one failure into the next based on his family connections. Serious investors included him in the deal that made him a millionaire—the purchase of the Texas Rangers—as a hood ornament. Even his ceremonial role was possible only because he played financial games worthy of Enron CFO Andrew Fastow.

The corporate reform package, which will on balance probably do harm, is really a sideshow. Old-school liberals such as *American Prospect* Co-Editor Robert Kuttner blame deregulation for the market's slide and boldly assert that it's time for regulators to save capitalism from itself once again.

But it wasn't lack of regulation that caused the financial bubble, and it won't be increased regulation that will help asset prices rise from their lows. That's a job for investors, who will be a bit more circumspect about the next new things and perhaps won't ignore cover stories in *Fortune* and elsewhere that expose large companies as Ponzi schemes.

So when Congress sets up a new regulatory body to police accountants and forbids firms from auditing and consulting for the same company, its actions are redundant. These are properly issues between investors and management. Instead of putting D.C. in charge of accounting standards, a better reform would be to repeal the Depression era law that requires public companies to be audited and gives public accountants a lock on the business. If audits add value, investors will reward companies that pay for them with higher stock prices. If an accounting firm becomes known for catering to management, companies that hire it will suffer a lower valuation.

That's not to say there isn't a role for the cops. Markets are imperfect, and investors are limited in the justice they can mete out. Investors brutally punish companies in which they lose confidence. Much is made of WorldCom's collapse after it disclosed its $3.8 billion mistake. But that merely snuffed the company out. Its stock was already down 99 percent, from a high of $61.47 in June 1999 to 83 cents a share at the time the creative accounting became known. That news simply took it from 83 cents to zip.

But as harsh as investors can be with companies that misbehave, they cannot bring misbehaving individuals to justice. That's the role of the cops. Executives who crossed the line that separates creative finance from fraud—a fact that can be established not by the press but only by a court of law—need to pay with not only their wealth but also their freedom.

After all, if committing murder in D.C. or burglarizing apartments in San Francisco meant losing one's freedom, there'd be far fewer killers and burglars. And if defrauding investors meant going to jail rather than moving on to the next lucrative job or easing into a comfortable retirement, there would be a lot less of that as well. ▫

Mike Lynch (michael79@snet.net) is a **reason** *contributing editor.*

National Correspondent Mike Lynch, who joined our staff in 1997 as Washington Editor, is leaving reason to seek greener pastures as a financial planner. We'll greatly miss having him as a full-time colleague but wish him the best of luck. He will continue to grace our pages as a contributing editor.

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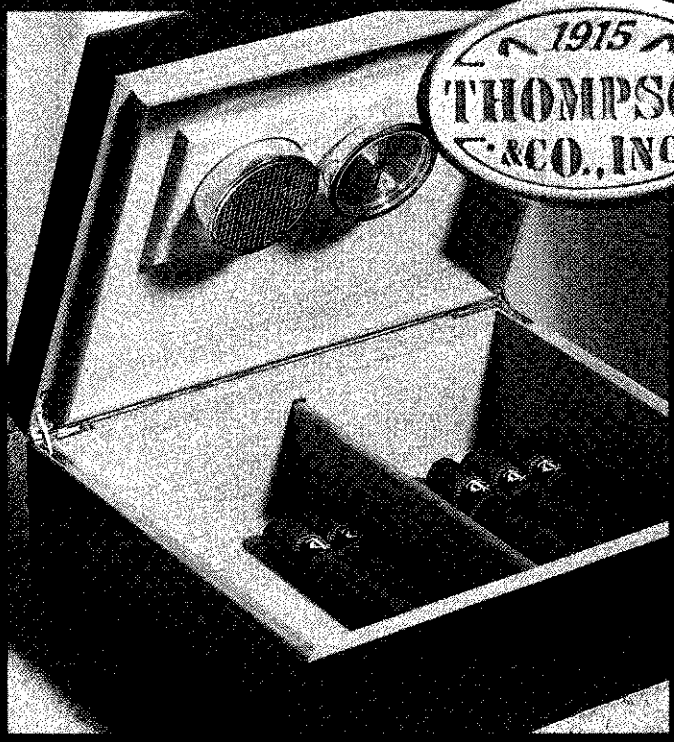

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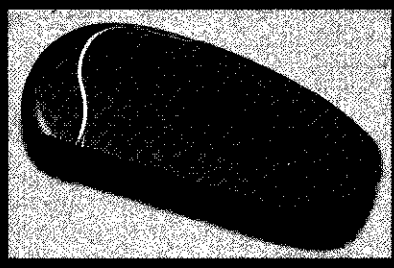

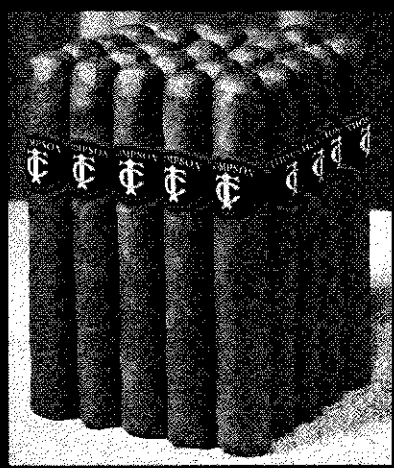

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One Nation, Many Gods

Vouchers, the Pledge of Allegiance, and the separation of church and state

IN LATE JUNE two controversial legal rulings, one far more notorious than the other, considered the separation of church and state. On June 26 a three-judge panel of the U.S. Court of Appeals for the 9th Circuit ruled that reciting the Pledge of Allegiance in a public school with the words "one nation, under God" amounts to state establishment of religion and thus is unconstitutional. The next day, the U.S. Supreme Court ruled, 5 to 4, that it does not violate the Constitution to let parents use publicly funded vouchers at parochial schools.

Most people who supported the Supreme Court's ruling on vouchers denounced the 9th Circuit ruling on the Pledge, and vice versa. But maybe both courts were right.

Figures from across the political spectrum denounced the first ruling as outrageous and crazy, and members of Congress trooped out onto the steps of the Capitol en masse to bravely recite the Pledge. The conservative columnist Cal Thomas opined that "the 9th Circuit Court of Appeals in San Francisco has inflicted on this nation what many will conclude is a greater injury than that caused by the terrorists" on 9/11.

Yet quite a few legal experts, not all of them left of center, say the opinion was based on logical, if debatable, constitutional reasoning with a good deal of precedent behind it. The disputed words do seem to turn the Pledge into a state-sanctioned endorsement of belief in God, and to exclude not only atheists and agnostics but followers of polytheistic religions such as Hinduism and nontheistic ones such as Buddhism.

Since constitutional doctrine and legal precedent can be interpreted either way, the courts that will hear the case on appeal are likely to go with the version that seems less divisive. Many liberals see this as a good way to avoid a nasty culture war over a minor issue. On the other hand, attorney Matthew Hoffman has argued in *The New Republic* that the vehement reaction to the Pledge ruling demonstrates that the court was right—and he has a paradoxical point. Much of this reaction reflects attitudes that bode ill for religious liberty, at least for the nonreligious.

Take President Bush's statement that the decision "points up the fact that we need common-sense judges who understand that our rights were derived from God." Does this mean that we now have a religious test for public office? When it comes to judgeships, should nonbelievers not apply?

Or take the suggestion—offered by several conservative pundits, such as Bill O'Reilly—that if the Pledge in its current form excludes people who don't believe in a personal God, it's no big deal because such people are a small minority of Americans. Isn't it the most basic of American principles that even the tiniest minorities have rights that can't be trampled by the majority's preferences? If one were to go by numbers alone, there are more atheists and agnostics in this country than Jews and Muslims combined. Yet most of those who want public life to incorporate some officially sanctioned expression of belief in God stress that such expression should be acceptable to non-Christian believers.

Writing in *Salon*, the political scientist Alan Wolfe opined that the Pledge ruling "violates the beliefs of all those who insist that religion is more than a matter of personal conviction, that faith is essential to how we Americans define ourselves collectively." But this reasoning comes perilously close to suggesting that nonbelievers are not real Americans.

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Indeed, the rising prominence of religious rhetoric in politics raises the question of whether the overtly nonreligious have a place in public life. Yes, it would be intolerant to demand that politicians refrain from speaking publicly about their faith, but let's turn the tolerance issue around. Would any nonsuicidal political candidate dare to state openly that God should not be credited for the recent rescue of nine miners in Pennsylvania?

Public space should not be purged of all religious expression, as some zealots would have it. A student should be able to talk publicly about his or her faith, even at an official event such as a graduation speech, as long as such expression is not endorsed or imposed by school or state. But no one should be forced or pressured to participate even in a rote ritual affirmation of belief in God. Incidentally, one rarely noted fact is that while children can opt out of the Pledge of Allegiance, teachers frequently cannot: They are often required to lead the class in the recitation.

Removing the words "under God" from the Pledge would not, as Wolfe charges, amount to "official sponsorship of atheism." (That would be the case if the wording were changed to "one nation under no God.") Instead, it would affirm official neutrality between religion and nonreligion.

Whether that's consistent with the intent of the Founders is a complicated issue. While conservatives argue that our political order is based on a Judeo-Christian philosophy, it is noteworthy that the Constitution does not mention God. Two essays in the recent collection *James Madison and the Future of Limited Government* leave little doubt that Madison, the leading framer of the Constitution, wanted the government to be strictly neutral in religious matters. Interestingly, one of these essays is by the conservative scholar Walter Berns, who deplores Madison's position.

Does the Supreme Court's ruling on school vouchers violate this principle of neutrality? No. Under voucher programs, the government is not establishing religious schools, nor is it funding religious schools in preference to secular ones. It is giving stipends to parents who can then send their children to any private school, religious or secular. To exclude religious schools from these programs, as some liberals propose, would not be neutral—it would be a form of active discrimination *against* religion.

Some people argue that their tax money shouldn't be used to support schools that teach religious doctrines they find objectionable. But secular private schools—and, more important, public schools—teach plenty of things to which some taxpayers object, from the acceptability of nonmarital sexual relationships to a quasi-religious environmentalism.

Right now, parents who are happy with secular schooling can have it for free while those who want religious schooling have to pay tuition on top of their school taxes. The voucher ruling allows parents to choose a secular or religious education for their children on an equal basis.

When balancing the rights of the religious majority and the nonreligious minority, the best approach is to maximize freedom of choice. ■

Contributing Editor Cathy Young (cathyyoung2@cs.com) is a columnist for The Boston Globe.

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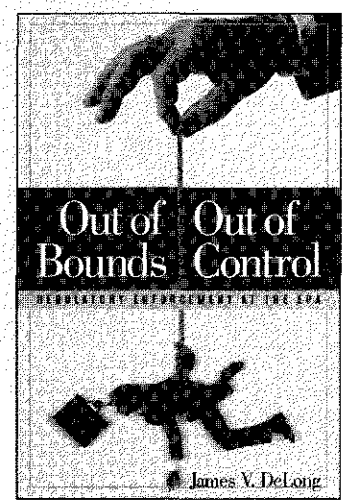

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Laughter in the Ruins

What hasn't changed since 9/11

LAST SUMMER SOMEONE e-mailed me an item from angryfinger.com, a satire site that sells T-shirts bearing the slogan "jihad: pay anti-ding." According to the article, the authorities had finally settled on a plan for rebuilding Lower Manhattan: "Vintage television actor Dick Sargent would be hired as a replacement for the World Trade Center."

The site included an "artist's conception of the New York City skyline after Dick Sargent is installed," along with learned references to some lesser-known moments in the résumé of the man most famous for taking over the role of Darrin in the later years of the proto-Wiccan sitcom *Bewitched*.

Now *this* is national greatness. We may or may not succeed in fending off future massacres, or in crushing the network of thugs behind the September 11 attacks. But in the face of a separate but related threat, we have proved ourselves more than resilient.

It has been a year since scolds from Roger Rosenblatt to David Brooks cackled that the ironic would now give way to the iconic, the sarcastic to the bombastic, the deadpan to the grave. No one called for humor itself to disappear—not openly, anyway. But certain subjects, we were told, would be forgotten, discarded as so much frivolous nonsense; and the topics that remained would never be discussed without the appropriate gravitas.

Yet irreverence and distraction have prevailed. Crude jokes and celebrity trivia have survived. It took a while, but mocking the president is popular again. What a relief!

Unlike many writers, I didn't fret much about the future of dissent after 9/11, except in the larger sense that everyone in the country, dissidents included, might, you know, die. Within weeks, the most radical positions short of actual support for Al Qaeda were being not just championed but rewarded. Michael Moore had a best-selling book. Hell—*Noam Chomsky* had a best-selling book. It wasn't just possible to challenge the consensus; it was profitable. The only prominent casualty has been *Politically Incorrect*, and that was already on its way to a long-deserved death.

But if I didn't worry about our ability to dissent, I did wonder about our ability to be wisecracking slobs. There was a time last fall when it seemed inappropriate to broadcast comedy shows on TV, a time when our only outlet for silly topical humor was online doctored photographs of Osama bin Laden. Even *The Onion* was on hiatus. When the late-night comics returned, they did so almost apologetically, obviously unsure just what their role in society would now be.

By February, ABC was publicly pondering giving Ted Koppel's nightly time slot to David Letterman.

In the year since the World Trade Center came down, it's been gratifying to note all the things that *haven't* changed. I can still watch old Tex Avery shorts on the Cartoon Network. I can still listen to half-crazed talk show cranks. I can still buy a ridiculous array of tasty, unhealthy snacks at any convenience store—and the convenience store in my old neighborhood is still operated by Arab-Americans.

There have been real threats to our liberties since September: a USA PATRIOT Act that eviscerates the Fourth Amendment; a roundup of immigrants that's gone far beyond any reasonable protection against terrorism; a renewed impulse toward secrecy in the public sector and against it in our private lives; an airport security regime apparently designed to be as intrusive as possible; a political class calling for citizen snitches, secret tribunals, and a militarized national police force.

But it is still possible to dissent from the war on terrorism. It is still possible to make really inappropriate jokes about the war on terrorism. It's even possible, sometimes, to ignore the war on terrorism. The "new national purpose" we've heard so much about has not throttled the stuff of everyday life.

And people still remember *Bewitched*. It wasn't even a good show. But I'm glad we still have it. ▯

Associate Editor Jesse Walker (jwalker@reason.com) is author of Rebels on the Air: An Alternative History of Radio in America (NYU Press).

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WHO'S TO BLAME FOR 9/11?

PRECONCEIVED NOTIONS NEVER DIE—OR FADE AWAY! BY P. BAGGE '02 (PETERBAGGE@EARTHLINK.NET)

WE'RE ALL TO BLAME, DUE TO OUR LACK OF UNDERSTANDING AND ACCEPTANCE OF OTHER PEOPLE'S CULTURES...
ARE WE SUPPOSED TO "ACCEPT" OTHER CULTURES?
YES, IF WE WANT TO KEEP FROM GETTING BLOWN UP AGAIN!
THE C.I.A., OF COURSE... AND THE F.B.I. ...
THEY WERE ASLEEP AT THE SWITCH!
IT'S THEIR JOB TO INSURE THAT NOTHING BAD HAPPENS TO THIS COUNTRY EVER, AND THEY FAILED US!
IT WAS ALL A PLOY BY THE BUSH ADMINISTRATION, TO DRIVE UP THE PRICE OF OIL...
BUT, THE PRICE OF OIL HASN'T GONE UP—
OH, JUST YOU WAIT!
THE LORD IS PUNISHING US FOR LEGALIZING ABORTION...
AND FOR THE PILL...
AND FOR ALLOWING WOMEN TO WEAR PANTS!
HOLY BIBLE
NOTHEENG HAPPENED ON 9/11!
OR IF IT DID, ZEE U.S. GOVERNMENT STAGED ZEE WHOLE THEENG...
ZEEZ FACTS ARE DOCUMENTED IN ZEES BOOK!
THE FRIGHTENING FRAUD
BY JERRY MEECH
IT WAS MOSSAD. DEFINITELY.
THEY DID IT TO GENERATE SYMPATHY FOR THE ISRAELI CAUSE.
THEN WHY DID SO MANY PALESTINIANS REJOICE IN THE WAKE OF 9/11?
WHAT ARE YOU, A JEW?

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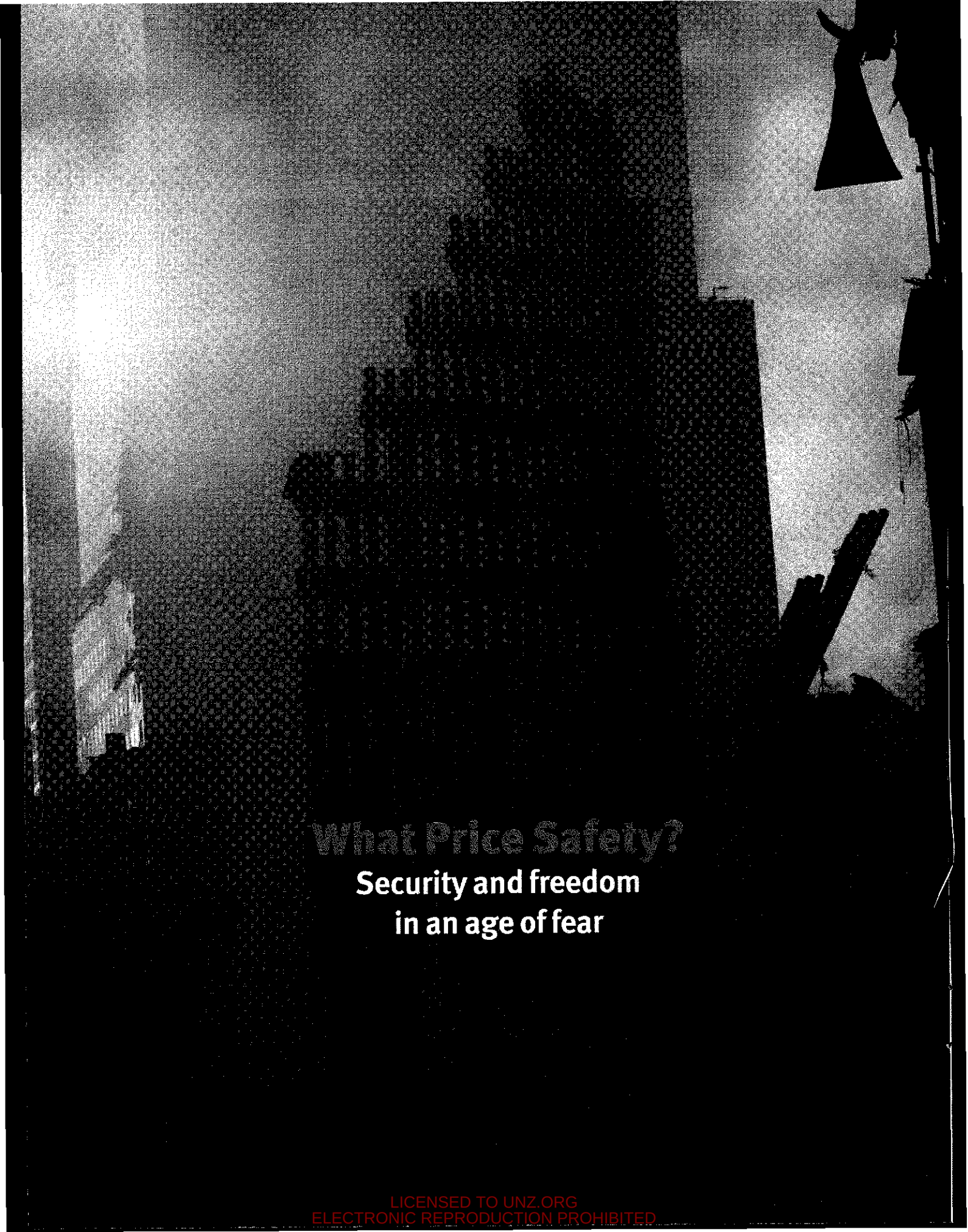

What Price Safety?

Security and freedom in an age of fear

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Freedom for Safety

An old trade—and a useless one

Nick Gillespie

AMID THE MAD, horrific carnage of 9/11—amid the planes screaming into office buildings and cornfields; amid the last-minute phone calls by doomed innocents to loved ones; amid the victims so desperate that they dove from the heights of the World Trade Center to the pavement below (what nightmare thoughts must have shot through their minds in that all too brief yet interminable fall to Ground Zero?); amid the billowing cloud of ash that smothered Manhattan and the rest of the country like a volcanic eruption of unmitigated human suffering; amid the heroism of plane passengers and firemen and cops and neighbors; amid the crush of steel and concrete and glass that flattened 220 stories into a pile barely 50 feet tall—amid the 3,000 deaths that day, something else died too.

By nightfall, it seemed, we had changed from a nation that placed a uniquely high value on privacy and freedom to one that embraced security and safety as first principles. Of *course* we swapped freedom for safety. Just look again at those people jumping from the twin towers to understand why 78 percent of respondents in a recent Gallup/University of Oklahoma poll favored trading civil liberties for "security" (and why 71 percent supported a national ID card too). Never mind that the trade hasn't made us safer, or that it erodes the freedom that we say is precisely what the terrorists hate about us.

Within days of the attacks, Attorney General John Ashcroft pushed Congress to pass expansive anti-terrorism legislation that was a lawman's wish list (and not very different from the regular requests made by lawmen before 9/11). We *must*, implored the man who had redirected FBI efforts away from counterterrorism and back toward battling drugs and kiddie porn, make it easier for cops and feds and spies to get the drop on suspects, broaden the definition of and increase the penalties for money laundering, impose new restrictions on immigration, and on and on.

On October 26 President Bush signed the USA PATRIOT Act, an acronym for a law so ludicrously named that it sounds like Thomas Pynchon parodying George Orwell: the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act. As the Electronic Frontier Foundation (EFF) and other critics noted, the legislation ran to 342 pages and made major changes to over a dozen statutes that had limited government surveillance of citizens. We can assume that many legislators and their staffers, in the time-honored tradition, didn't read the text before casting their votes. Likewise, it will be years, not just months, before the act's full implications are clear.

The USA PATRIOT Act is a synecdoche for the freedom-for-safety swap. Among many other things, it sanctioned roving wiretaps (which allow police to track individuals over different phones and computers) and spying on the Web browsers of people who are not even criminal suspects. It rewrote the definitions of terrorism and money laundering to include all sorts of lesser and wider-ranging offenses. More important, as EFF underscored, "In asking for these broad new powers, the government made no showing that the previous powers of law enforcement and intelligence agencies to spy on U.S. citizens were insufficient to allow them to investigate and prosecute acts of terrorism." Nothing that's emerged in the past year contradicts that early assessment.

"We're likely to experience more restrictions on personal freedom than has ever been the case in this country," pronounced Supreme Court Justice Sandra Day O'Connor last year after visiting Ground Zero. So we have, in ways large and small, profound and trivial. The worst part of the freedom-for-safety swap is that it's *never* a done deal; the safety providers are endless hagglers, always coming back

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for more. This fall's major homeland security legislation, unfinished at press time, will doubtless renew the negotiations.

Who knows where it will end? Freedom and privacy rarely, if ever, disappear in one fell swoop. In just a year, we've become accustomed to unnamed "detainees" being held in secret by the Department of Justice (and to the DOJ refusing to comply with state and federal court rulings to release the names of suspects); to the possibility of equally secret "military tribunals" (it's all right—they won't be used against U.S. citizens, except *maybe* "bad apples" like dirty bomb suspect Jose Padilla, and wasn't he a gang member anyway?); to state and federal agencies' dragging their feet on releasing documents legally available through open government laws; and to legislators such as Sen. Mike DeWine (R-Ohio) constantly pushing the limits of the USA PATRIOT Act. (DeWine wants to allow the FBI to wiretap legal immigrants on the weakest "suspicion" of criminal activity.)

Today's America is not Bentham's Panopticon or Orwell's dystopia. But in making the freedom-for-safety swap, we haven't just dishonored the dead of 9/11. We've helped something else die too.

We've become trained to show up hours earlier to airports and to shuffle passively through security checkpoints, to unbuckle our pants and untuck our shirts, to hold our feet up in the air while agents wave wands over our shoes, to surrender nail clippers at the gate or just travel without them, to grin and bear it while Grandma's walker gets the once-over. (Who even remembers the relative ease of air travel pre-9/11—much less before the mid-'90s, when we first started showing picture IDs as a condition of flying?) We've already started to ignore the ubiquitous surveillance cameras like the ones that watched over us as we celebrated the Fourth of July on the Mall in Washington, D.C. We've learned to mock a never-ending series of proposals such as the infamous Operation TIPS and plans for beefing up the old Neighborhood Watch program into a full-blown "national system for...reporting suspicious activity," both of which are moving forward in modified form despite widespread hooting.

Has any of this made us safer? Not from our government, which has done little to earn our trust over the years, especially when it comes to law enforcement. And not from terrorists, either. If *they've* been cowed, it's because we went after bin Laden and his minions with specific, extreme, and righteous prejudice. It's because of regular people who took the terrorists down over Pennsylvania instead of the White House, and who wrestled shoe bomber Richard Reid onto the floor at 30,000 feet. It's because, as a nation and as individuals, we showed that we would fight for a way of life that values freedom and privacy.

How wrong, then, that we've dealt away some of our freedom and privacy for a promise of safety and security. To be sure, today's America is not Bentham's Panopticon or Orwell's dystopia (or even Castro's). It's not even solely a product of the September attacks, which merely hurried along trends that were already well under way. But in making the freedom-for-safety swap, we haven't just dishonored the dead of 9/11. We've helped something else die too. ◻

Nick Gillespie is **reason***'s editor-in-chief.*

Face the Facts

Facial recognition technology's troubled past—and troubling future

David Kopel and Michael Krause

WHEN CONSTRUCTION WORKER Rob Milliron sat down to eat his lunch in Tampa's Ybor City entertainment district in July 2001, he didn't expect that it would result in a visit to his workplace by police officers looking to arrest him. His innocent dining inadvertently placed him in a showcase for one of the hottest trends in high-tech surveillance security: facial recognition cameras.

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Milliron's face, scanned by the cameras, ended up in a *U.S. News & World Report* article about the technology. The accompanying headline read: "You can't hide those lying eyes in Tampa." Then a woman in Oklahoma saw the picture, misidentified Milliron as her ex-husband, who was wanted on child neglect charges, and called the police. After convincing police he had never been married, had kids, or even been to Oklahoma, he told the *St. Petersburg Times*, "They made me feel like a criminal."

Milliron perhaps can take some comfort from the fact that, as the use of facial recognition technology (FRT) for police work spreads, he won't be alone in being falsely suspected. FRT advocates offer Americans a sweet-sounding deal: sell your privacy for security. That's an especially comforting pitch in the wake of 9/11. We've all seen the grainy photos of Mohammed Atta and crew waltzing through airport security. If only those cameras had been linked to the proper criminal databases, say FRT proponents, the attackers never would have made it onto the planes.

But FRT, currently used in at least two U.S. cities and widespread throughout Great Britain, is notoriously unreliable and ineffective. At its best, it brings to our streets the high-tech equivalent of the Department of Transportation's airport security policy: humiliate and search everyone ineffectively.

That's bad enough, but the real problems will occur if FRT ever does start working as promised. It threatens to create a creepy future of ubiquitous spy cameras that will be used by police for purposes far less noble than thwarting terrorists.

FRT works by combining photographic images with computer databases. After an image is captured by a camera, a computer program measures some of the 80 or so nodal points on your face, such as the distance between your eyes, the width of your nose, the depth of your eye sockets, and the length of your jaw line. The technology then turns the nodal measurements into a numerical code called a "faceprint." A properly working face recognition system supposedly can match a person standing in front of a camera with a record from a database including tens of millions of faceprints. Criminals, say proponents, would have nowhere to hide. And law-abiding citizens would have no reason to fear.

Yet for the most part, FRT hasn't worked as intended. The Milliron incident in Tampa was just one of a string of national flops for face scanners, which prior to 9/11 were widely derided even as they were being implemented or considered by several municipalities, including Tampa; Jacksonville, Florida; and Virginia Beach, Virginia. At the time, FRT was being marketed as a tool to catch wanted felons and find runaways and missing persons. Nonetheless, a measure was introduced in the Virginia legislature requiring a judge's approval to use FRT, and in Tampa city council members who had approved its use claimed they had been fooled and didn't know what they had voted for.

Then the terrorists attacked, and everything seemed to change. The Virginia legislature dropped the bill requiring judicial approval. Executives at FRT firms testified before Congress and were called on by intelligence and law enforcement agencies. Tom Colatosti, CEO of Viisage Technology, told reporters, "If our technology had been deployed, the likelihood is [the terrorists] would have been recognized." Major airports, including Boston's Logan, Dallas-Fort Worth International, and Palm Beach International, have installed test versions of FRT. While the stock market was slumping, scanning companies Visionics and Identix saw their share prices shoot up 244 percent and 197 percent, respectively, in the six months following 9/11. (The two companies have since merged and are now known as Identix.)

Yet one stubborn fact remains: FRT doesn't work. In March, Palm Beach International Airport ran a test of Visionics' "Argus" facial recognition system (a version that can be plugged into existing closed circuit TV systems) at its Concourse C security checkpoint. Fifteen airport employees tried to get through the security checkpoint. The security checkers had a database of 250 faceprints, including those of the 15 testers. Over a four-week period, the testers made 958 attempts to pass through the checkpoint; the face recognition system stopped them 455 times, for a success rate of only 47 percent. On top of that, there were 1,081 false alarms triggered by ordinary passengers and other airport employees passing through the scanners. That worked out to two or three false alarms per hour.

In the experiment, the people who triggered false positives didn't have to be pulled aside and interrogated by the police. But imagine what would happen if they did; imagine FRT on every concourse of the airport, using a database of

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"wanted" suspects numbering in the hundreds of thousands. That would make for at least dozens of false positives every hour.

What happens if you're one of the folks detained? After the police have marched you into the interrogation room, how do you prove that you're really who your identification says you are, and not a terrorist (or an ordinary fugitive) using false ID? If you're one of the airport cops, how do you go about your job knowing that the overwhelming majority of the suspects are in fact innocent?

The Palm Beach test isn't the only one that casts a shadow on FRT. Richard Smith, former head of the Privacy Foundation at Denver University and now a privacy and Internet security consultant in Brookline, Massachusetts, conducted his own test of the Visionics "FaceIt" system. He got similarly unimpressive results.

Smith found that changes in lighting, eyeglasses, background objects, camera position, and facial position and expression all seriously affected image quality and system efficacy. He concluded that airport use of FRT would require "special walkways where lighting is tightly controlled and passengers pass single file." Passengers would have to be "instructed to remove hats and glasses and look straight ahead at a head-height camera."

None of this fits with the exaggerated claims in favor of FRT made by those selling it and repeated as fact by gullible media outlets. According to the *Denver Post*, "It doesn't matter if you gain 200 pounds or go bald between photographs. Short of plastic surgery the camera will recognize you." Unless, of course, you put on sunglasses, or cock your head, or make a funny face.

Or get older. A study by the National Institute of Standards and Technology found a 43 percent failure rate for pictures of the same person taken one and a half years apart. Similarly, the Defense Department funded a test of commercially available FRT. It found that the systems failed one-third of the time and produced a large number of false positives. The impressive reliability rates you hear from the face scanning companies are usually based on tests in laboratories under optimal conditions.

Yet "even if the technology worked perfectly," Smith observes, "it would still allow 99 percent of the terrorists through....The biggest problem with face recognition systems is the simple fact that we don't know who the terrorists are and law enforcement doesn't have their pictures. Spotting terrorists at airports is simply the wrong use of this technology."

Even if we did know who the terrorists were, we'd have to sit them all down for a session with Annie Leibovitz for FRT to be useful. According to the testers at Palm Beach International, "Input photographs needed to be of good quality to make successful matches." Similarly, people being scanned need to stand still, look straight at the camera, and not wear glasses. As the Palm Beach study acknowledged: "Motion of test subject head has a significant effect on system ability. There was substantial loss in matching if test subject had a pose 15 to 30 degrees off of input camera focal point and eyeglasses were problematic."

Mass face scanning was formally introduced to the American public in January 2001 at Super Bowl XXXV in Tampa, when football fans had their faces surreptitiously checked with a Viisage system and compared to a database of known criminals. The Tampa authorities then began to use scanning in the Ybor City entertainment district. They targeted people strolling down the street or eating lunch, comparing their faceprints to a database of criminals and runaways.

Using open record requests, the American Civil Liberties Union (ACLU) discovered that the system was essentially abandoned within months of its highly publicized rollout. No correct matches had been made to the criminal database. Instead, according to the ACLU, the system matched "male and female subjects and subjects with significant differences in age and weight."

Put another way, FRT can be dumber than Inspector Clouseau: Even he could distinguish a man from a woman, or a short fat man from a tall thin man. The Tampa police, for their part, deny they have abandoned FRT, saying they are revamping it to work with more cameras.

Before they spend the money, they should take a closer look at the experience in the world capital of FRT. The London borough of Newham, with a population of about 250,000, is widely touted by advocates as proof of the technology's awesome crime-fighting ability. Newham boasts approximately 300 government cameras located in strategic places and linked to Visionics' FaceIt system. Newham's FRT

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is credited by advocates and local government officials with cutting crime by nearly 40 percent since 1998. That effect, if real, was apparently not long-lasting. According to a United Press International report, street robberies and car theft—two crimes for which FRT is supposed to be an especially powerful deterrent—were on the rise again in Newham last year.

And as Jeffrey Rosen reported in *The New York Times Magazine* last October, the Newham spy system has not resulted in a single arrest during its three years of operation. Nor do the people who run the system even know who is in the database. The deterrent effect, to the extent there may be one, appears to lie with the signs posted throughout Newham telling criminals that cameras are watching and that the police know who they are, where they live, and what crimes they have committed. Of course, "it's not true," as the Newham monitoring chief admitted to Rosen.

Once your faceprint is in a state database, the federal government has legal authority to use it for any purpose at all. By federal statute, every state driver's license record is available to every federal agency.

Newham is simply a part of Great Britain's growing spy camera network, which arose as a response to terrorist bombings in London's financial district in the early 1990s. Britain now has some 1.5 million government cameras in place. As the cameras were first being set up, the government, then under the control of the Tories, insisted that "if you have nothing to hide, you have nothing to fear." Now under control of the Labour Party, the government is spending $115 million for still more spy cameras.

Despite ubiquitous cameras, however, violent and property crime in England is soaring. A three-year government study by the Scottish Center for Criminology recently concluded there is no evidence to suggest that Britain's spy cameras have reduced serious crime overall. Another study, this one by the National Association for the Care and Resettlement of Offenders, looked at 14 British cities and found that the cameras had little effect in reducing crime. The study suggested that improving street lighting would be a more cost-effective crime prevention method.

This much can be said in favor of the cameras: In some cases, they have been used to convict speeders, other traffic law offenders, and litterbugs. Yet it's one thing to give up your privacy to catch Irish Republican Army terrorists. It's another thing to surrender privacy so the police can catch people who litter.

Of course, just because FRT doesn't work very well today doesn't mean it will never work. FRT companies are receiving massive amounts of corporate welfare. According to a March General Accounting Office (GAO) report, as of June 2001 the Departments of Justice and Defense had given about $21.3 million and $24.7 million, respectively, to the research and development of FRT. All this research will probably result in much-improved products eventually.

What then? Philip Agre, an associate professor in the Information Studies Department of the University of California at Los Angeles, argues that as FRT gets better the potential for abuse will rise commensurately. "As the underlying information and communications technologies (digital cameras, image databases, processing power and data communications) become radically cheaper (and more powerful)," he writes on his Web site, "new facial image databases will not be hard to construct, with or without the consent of the people whose faces are captured."

Once those databases exist, their uses will doubtless expand, consistent with typical bureaucratic mission creep. Look, for example, at the 2001 Colorado law allowing the Division of Motor Vehicles (DMV) to use biometric technology to map applicants' faces for driver's licenses. The stated intent was to stop the same person from obtaining multiple licenses. But the law's language was much broader, allowing access to the DMV database to "aid a federal, state or local government agency in carrying out such agency's official function"—in other words, for any government purpose whatsoever. Illinois and West Virginia also have turned

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their driver's license bureaus into mandatory faceprint collection points.

In March, after national criticism, the Colorado legislature refined the face mapping scheme, declaring that before a government agency can tap into the image database, it must have "a reasonable suspicion that a crime has been committed or will be committed and a reasonable suspicion that the image requested is either the perpetrator of such a crime or the victim of such a crime." Like Colorado, states can establish guidelines that ostensibly limit government use of your faceprint. But once your faceprint is in a state database, the federal government has legal authority to use it for any purpose at all. By federal statute, every state driver's license record is available to every federal agency, "including any court or law enforcement agency, in carrying out its functions." Because of the Supremacy Clause of the U.S. Constitution, a state government cannot limit the uses to which federal agencies put these state-gathered faceprints.

Even before 9/11, many local law enforcement agencies considered political surveillance to be one of their official functions. For example, last spring it came to light that the Denver Police Intelligence Unit has for years kept surveillance files on government protesters, including about 3,000 individuals and 200 organizations. Among those targeted for police spying were the American Friends Service Committee (a Quaker group), Amnesty International, and Copwatch (a group that protests police brutality). The surveillance program was supposedly scaled back (though not eliminated), but only after secret documents were brought to public attention by the Colorado Civil Liberties Union.

Telling Colorado cops that they must have "reasonable suspicion" before accessing the faceprint database sounds good, but law enforcement will easily find ways around such restrictions. The Denver police surveillance guidelines have always required criminal suspicion, so the police simply listed as extremists the groups they wanted to spy on.

Indeed, the main constraint on the Denver Police Department's political spying program was manpower. There are only so many people a police unit can spy on at once. But with FRT, political surveillance may one day escape such limits. Consider a mobile monitoring unit equipped with a face scanning camera, face recognition software, and the state's driver's license faceprint database. It would be a simple matter to compile a list of everyone who attends a rally to protest police brutality, to denounce drug laws, or to oppose U.S. foreign policy.

Nor will the technology necessarily be confined to use at political protests. In July 2001, the conservative U.S. House Majority Leader Dick Armey (R-Texas) joined with the ACLU to warn: "Used in conjunction with facial recognition software...the Colorado database could allow the public movements of every citizen in the state to be identified, tracked, recorded and stored."

Sound far-fetched? On September 20, 2001, Joseph Atick, CEO of Visionics, told a Department of Transportation airport security committee that FaceIt, in conjunction with security cameras, could be linked via the Internet to a federal monitoring station and alert officials to a match within seconds. He added that virtually any camera, anywhere, could be linked to the system, as could a "wide network of databases."

Widespread face scanning could eventually make it possible for the government to track the movement of most citizens most of the time. It would expand the government's tracking capability by several orders of magnitude.

Opponents of FRT should not count on much help from the courts. Standard legal doctrine holds that there is little or no expectation of privacy in public. There is nothing unconstitutional, for example, about a police officer's sitting on a bench at a shopping mall and making notes about the people who pass by. FRT advocates can argue that massive surveillance is simply like having 10—or 100—police officers in the mall, and that the

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quantitative difference is of no constitutional significance.

Yet even if we acknowledge that electronic government eyes are no different than a cop on every corner, do we really want that? One of the conclusions of Jeffrey Rosen's *New York Times Magazine* piece on spy cameras in Great Britain was that the cameras are designed not to produce arrests but to make people feel they are being watched all the time. "The people behind [the cameras] are zooming in on unconventional behavior in public that has nothing to do with terrorism," Rosen wrote. "And rather than thwarting serious crime, the cameras are being used to enforce social conformity in ways that Americans may prefer to avoid."

There is some reason for hope, however. In the past, U.S. courts have acknowledged that technological change can make a constitutional difference. Under 19th-century constitutional doctrine, there was no need for the police to get a warrant before eavesdropping. If a policeman stood on public property and could hear a conversation going on inside a house, he did not need a search warrant. That doctrine made sense in the 1800s; if you talk so loudly that people on the sidewalk can hear you, you don't have a legitimate expectation of privacy for your words.

But in the 1967 case *Katz v. United States*, the Supreme Court considered the issue raised by police officers who, without trespassing on private property, used parabolic microphones or wiretaps to listen in on conversations. Justice Hugo Black said this kind of surveillance was permissible because the new technology was simply an updated version of eavesdropping. The majority of the Court, however, ruled that wiretaps and other electronic surveillance should be permitted only if the police obtained a search warrant. The intrusiveness of electronic surveillance, its great potential for abuse, and its infringement on traditional expectations of privacy all distinguished it from old-fashioned eavesdropping.

Similarly, widespread face scanning could eventually make it possible for the government to track the movement of most citizens most of the time. It would expand the government's tracking capability by several orders of magnitude—as great an increase as the one from human ears to parabolic microphones.

Like the Fourth Amendment itself, *Katz* relies on a subjective judgment of reasonableness. Thus, there is no guarantee that *Katz* would stand as a barrier to omnipresent British-style face scanning; nor would *Katz* necessarily forbid placing information about every person's movements in a permanent government database.

Ultimately, the future of face scanning will depend on the political process. There is almost no chance that the American public or their elected officials would vote in favor of tracking everyone all the time. Yet face scanning is typically introduced and then expanded by administrative fiat, without specific legislative permission.

So there is a strong possibility that future Americans will be surprised to learn from history books that in the first centuries of American independence citizens took for granted that the government did not and could not monitor all of their movements and activities in public places.

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The Forever War

How long can an emergency last?

Jacob Sullum

Since 9/11, anyone who has questioned a proposed extension of government power or contraction of individual liberty has had to deal with an intimidating three-word rejoinder: "We're at war."

Among other things, "we're at war" has been offered as a justification for trying noncitizens before military tribunals, holding citizens in military custody without charging them, eavesdropping on attorney-client conversations, conducting secret searches, obtaining e-mail information and library records without a warrant, relaxing restrictions on FBI surveillance of religious and political activity, setting up a nationwide network of civilian informers, installing police cameras in public places, allowing the armed forces to play a more prominent role in law enforcement, establishing a national ID card, conscripting young peo-

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ple into "national service," and repealing President Bush's tax cuts.

Despite its rhetorical effectiveness, "we're at war" does not quite do justice to the situation in which we find ourselves. Even if it did, the claim would not give the government carte blanche to dispense with civil liberties. Although it promises moral clarity, the language of war obscures the issues at stake in the debate about how a free society should respond to terrorism.

In terms of massive, indiscriminate destructiveness, the attacks on the World Trade Center and the Pentagon certainly resembled war. Likewise, U.S. forces fought what looked like a war in Afghanistan, with planes bombing targets, organized groups of men shooting at each other, and civilians suffering "collateral damage." But after the Taliban were defeated and a new government was installed, this literal phase of the war on terrorism seemed to be petering out.

What was left looked less like World War II, and more like the war on drugs: an intermittently violent campaign against an amorphous enemy that can never be decisively vanquished. Bush did not declare war on Al Qaeda or the Taliban; he declared war on terrorism, which will be with us in one form or another for the foreseeable future. Unlike drug use, of course, terrorism is inherently criminal, a kind of aggression that no civilized society can tolerate. But the open-ended nature of the struggle against it means that the war on terrorism, unlike conventional wars, cannot be viewed as a passing emergency.

The debate about how to fight terrorism should not be based on the assumption that constitutional constraints are a luxury we can no longer afford.

That fact has important implications for the debate about how much liberty we should give up so the government can fight terrorism more effectively. Since there's no way of knowing when the war is over—no territory to occupy, no surrender to accept—any sacrifices we make are likely to be permanent. This uncertainty can fundamentally change the nature of the measures we are being urged to accept. For example, the president has claimed the authority to unilaterally declare citizens "enemy combatants" and lock them up until the "cessation of hostilities." In a war without end, such detention amounts to a life sentence.

Even in finite wars, courts rightly have insisted on traditional standards of due process when feasible. In a landmark 1866 case, the U.S. Supreme Court held that the constitutional rights of Lamdin P. Milligan, an Indiana man charged with aiding the Confederacy, had been violated when he was tried by a military tribunal instead of a civil court. Such shortcuts are not permitted, the justices declared, "where the courts are open, and in the proper and unobstructed exercise of their jurisdiction."

Milligan, living in a state threatened by invasion, was accused of secretly assisting the enemy in a war on U.S. soil that imperiled the Union's very existence. The vindication of his rights in these circumstances speaks volumes about the need to be wary of arbitrary power, especially during times when the public is least likely to resist it. "The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with its shield of protection all classes of men, at all times, and under all circumstances," the Court declared. It noted that the Framers "foresaw that troublous times would arise, when rulers and people would become restive under restraint, and seek by sharp and decisive measures to accomplish ends deemed just and proper; and that the principles of constitutional liberty would be in peril, unless established by irrepealable law."

If the Civil War did not trump the Constitution, it's hard to see why the war on terrorism should. That does not mean there is no room for debate about how to fight terrorism. But the debate should not be based on the assumption that constitutional constraints are a luxury we can no longer afford. Nor should it be limited to the question of what the Constitution permits. The debate is also about what works, and at what cost. It may be perfectly constitutional to put a national ID in every pocket and a surveillance camera on every corner, but that does not mean those are good ideas.

In any case, the war-vs.-peace paradigm clarifies little. The real issue is not whether we're at war but whether terrorism is so different from other crimes that special rules

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should apply. If terrorism is different, it's because of the damage it does, not because it's carried out by foreign belligerents. Homegrown terrorists like Timothy McVeigh pose the same sort of threat, although the president would be hard-pressed to put them in a brig as enemy combatants.

One could argue that we should be more willing to risk imprisoning the innocent in cases involving terrorism because the potential cost of freeing the guilty is especially high. The principle here, which suggests that murder suspects should get less due process than people accused of shoplifting, is questionable. But such a position is more honest than the line offered by many conservatives, who argue that it's outrageous to be concerned about "the rights of terrorists" when American lives are at stake. This formulation assumes the guilt of anyone who falls under government suspicion.

If you're innocent, in other words, you needn't worry about giving the government more power to fight terrorism. I must be guilty.

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Closing the Books

Open government after 9/11

Jeffrey Benner

When the Bush administration drew up draft legislation to create a new Department of Homeland Security, it included a special privilege for the Office of Information Analysis and Infrastructure Protection, a key branch of the new agency. Information submitted voluntarily to the office about the security of computer systems, power plants, transportation infrastructure, banks, telecommunications, and any other facilities deemed critical to the U.S. economy would receive a blanket exemption from the Freedom of Information Act (FOIA). As a result, reams of information the government collects from private industry—and from state and local governments—would be kept secret from the public.

Some kind of FOIA exemption will almost certainly become law. The House approved its version of homeland security legislation on July 26. The bill included the broad exemption the administration requested, with some minor changes. The committee marking up the Senate's version of the bill has approved a more limited exemption than the House, setting the stage for a battle over the breadth of the measure in joint committee. Congress has vowed to have a homeland security bill on the president's desk in time for the anniversary of the attack.

Regardless of the exemption's final scope, it will be only the latest offensive in the Bush administration's sustained assault on transparency in government. The trend dates from the second month of Bush's term, when he blocked the scheduled release of presidential and vice presidential records from the Reagan administration. But it has accelerated dramatically since the terrorist attacks last fall. In an October 12, 2001, memo to all federal agencies, Attorney General John Ashcroft instructed government officials to withhold any information requested under FOIA if there is any "sound legal basis" for doing so. (The previous standard for denying a FOIA request, adopted in 1993, instructed agencies to withhold only information that could cause "foreseeable harm.") Ashcroft promised that the Department of Justice would defend any agency that withholds information under his new criterion. The impact of the new standard is hard to measure, but watchdog groups worry it has turned foot dragging and noncooperation on FOIA requests into official policy.

In March, White House Chief of Staff Andrew Card reiterated the message in another all-agency memo. Card reminded departments to safeguard any information, no matter how old, that could be helpful in the development of weapons of mass destruction, "as well as other information that could be misused to harm the security of our Nation and the safety of our people." Guidelines issued with the memo instructed all departments to apply the new standard even to unclassified information that might be "sensitive," a term left undefined.

Such a vague and sweeping directive to withhold information has watchdog groups from all shades of the political spectrum up in arms. Most of these groups, interested in preserving integrity and good practice in government, rely heavily on FOIA requests to uncover government waste and misconduct.

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in the mountains of Afghanistan and helped overthrow the Taliban government that made that country a haven for Osama bin Laden and his followers. Those actions were entirely appropriate, and the United States should take the next stage of the war into Pakistan, where most of the remaining Al Qaeda fighters have regrouped. But we must stay focused on the threat posed by bin Laden's network. In particular, we should not use terrorism as a pretext to settle old scores against Iraqi dictator Saddam Hussein.

Unfortunately, the Bush administration has made contradictory statements about the scope of the military's mission. At times, officials seem to focus on those responsible for the September 11 attacks. On other occasions, they suggest that America's goal is a war against terrorism per se —even terrorists who aren't targeting the United States. In his State of the Union address, President Bush went even further, singling out Iraq, Iran, and North Korea as an "axis of evil" and implying that those countries' efforts to acquire weapons of mass destruction were part of a global terrorist threat.

America badly needs to clarify its objectives. A war against Al Qaeda and any other organization or government that targets the United States is different from a general crusade against all organizations that use terrorist tactics against some adversary. The latter would be an extraordinarily broad and difficult mission. Yet even that mission would be narrower than a crusade against all terrorist organizations, plus all evil regimes that might possess weapons of mass destruction. A prime requirement of any good security strategy is that its objectives be realistic and attainable. Neither the second mission nor the third meets that test.

Equally troubling is Washington's failure to adjust its overall security strategy to meet the new threat posed by groups such as Al Qaeda. There has been no willingness to rethink old commitments and obligations. Instead, all the existing missions have been preserved and the new one simply added to the list.

That is a terribly myopic approach. At the end of the Cold War, the United States should have conducted a detailed audit of its security commitments around the globe, determined which were no longer relevant, and developed a strategy appropriate for the new era. The refusal to undertake such a reassessment was a major failing of U.S. foreign policy in the 1990s.

With the events of September 11, such a reassessment is no longer merely desirable. It is imperative. It is clear that even a narrowly defined anti-terrorist campaign will be a major American concern for several years. Obsolete or nonessential commitments are a distraction that the nation can ill afford, financially or otherwise.

A new, more relevant approach should do three things:

Encourage multiple centers of power. Many officials appear afraid of a global environment with several economic and military great powers and an assortment of mid-sized regional powers. But rather than resisting a return to a more historically normal condition of multipolarity—a process that is occurring gradually in any case, regardless of American preferences—Washington should accept that change and turn it to America's advantage. The presence of other significant political and military players in the international system can provide us with important security buffers, especially if those players are stable and democratic.

Ideally, such states would forge effective regional security organizations—a more robust European Union, for example. In most cases, though, regional multipolarity would involve more-informal balance-of-power arrangements. Even that outcome would usually serve American interests. Indeed, the mere existence of multiple powers—even if some of them are not especially friendly to the United States—makes it less likely that a hegemonic threat comparable to the Soviet Union could arise again. Regional powers would be the principal firebreaks against disorder and aggression in their respective spheres of influence, a development that would provide significant indirect security benefits to the United States.

Reject the "light switch" model of engagement. American involvement in world affairs can take a variety of forms. Yet whenever critics suggest pruning Washington's overgrown global security commitments, defenders of the status quo reflexively cry "isolationism." That reaction reflects what might be called the light switch theory of American engagement, in which there are only two possible positions, on or off. Either the United States continues pursuing an indiscriminate global interventionist policy that puts our soldiers at risk in Somalia, Haiti, the Balkans, and the like, or we turn into "Fortress America" and "wall ourselves off from the world."

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The contention is either disingenuous or obtuse. No serious analyst advocates creating a hermit republic. It is possible to adopt a security policy between the extremes of global interventionism—essentially the current policy—and Fortress America. Moreover, there are different forms of engagement in world affairs, of which the political-military version is merely one. Economic ties are increasingly important, as are diplomatic and cultural connections.

It is entirely feasible to have an active and creative diplomacy without playing the role of the world's policeman, much less the world's armed social worker.

There is no reason why the United States must have identical positions along each axis of engagement. It is entirely feasible to have extensive economic and cultural relations with the rest of the world and to have an active and creative diplomacy without playing the role of the world's policeman, much less the world's armed social worker. It is only in the areas of security commitments and military intervention that the United States needs serious reductions in its level of engagement.

Set priorities. Even a country as large and powerful as the United States cannot dictate outcomes everywhere and on every issue. Our attention and energy should be focused on significant adverse changes in the international system—in other words, on developments with the potential to threaten America's own security and well-being. We cannot afford to get bogged down in an assortment of petty conflicts, all in the name of preserving Washington's global leadership. There is a difference between parochial squabbles and serious security threats. Policy makers should learn it.

In most cases, subregional and internecine disorders will not impinge on vital U.S. interests. Washington can therefore afford to view them with detachment, intervening only as a balancer of last resort when the conflict cannot be contained by other powers in the region—and is expanding to the point where American security is threatened.

From the standpoint of American interests, what usually matters is the conduct of the dozen or so major powers—nations with significant military or economic capabilities. As long as those states remain at peace with one another and no menacing would-be hegemon emerges, the only remaining threat to America's security is the risk of terrorist attack. Events involving minor countries may create annoyances, but they do not disrupt the overall stability of the international system. Put bluntly: China's behavior should matter to the United States, but whether Kosovo becomes independent, Somalia holds together, or injustices occur in Burma should not.

A more cautious global political and military role would allow the United States to decommission superfluous military units and cut the defense budget even as it fights its terrorist adversaries. Moreover, by refusing to be on the front lines of parochial conflicts, America would reduce its risk exposure—including the risk of terrorist reprisals.

Making these changes would have been wise even before the events of September 11. The terrorist attacks have made them more urgent. It borders on the absurd for military leaders to complain about a lack of personnel to wage the war against Al Qaeda while 100,000 American troops sit uselessly in Western Europe, another 100,000 are deployed in Japan and South Korea, and thousands more are tied down in babysitting missions in Bosnia and Kosovo. To wage war against its terrorist adversaries, America must clear the decks of outdated or misguided military commitments. ▮

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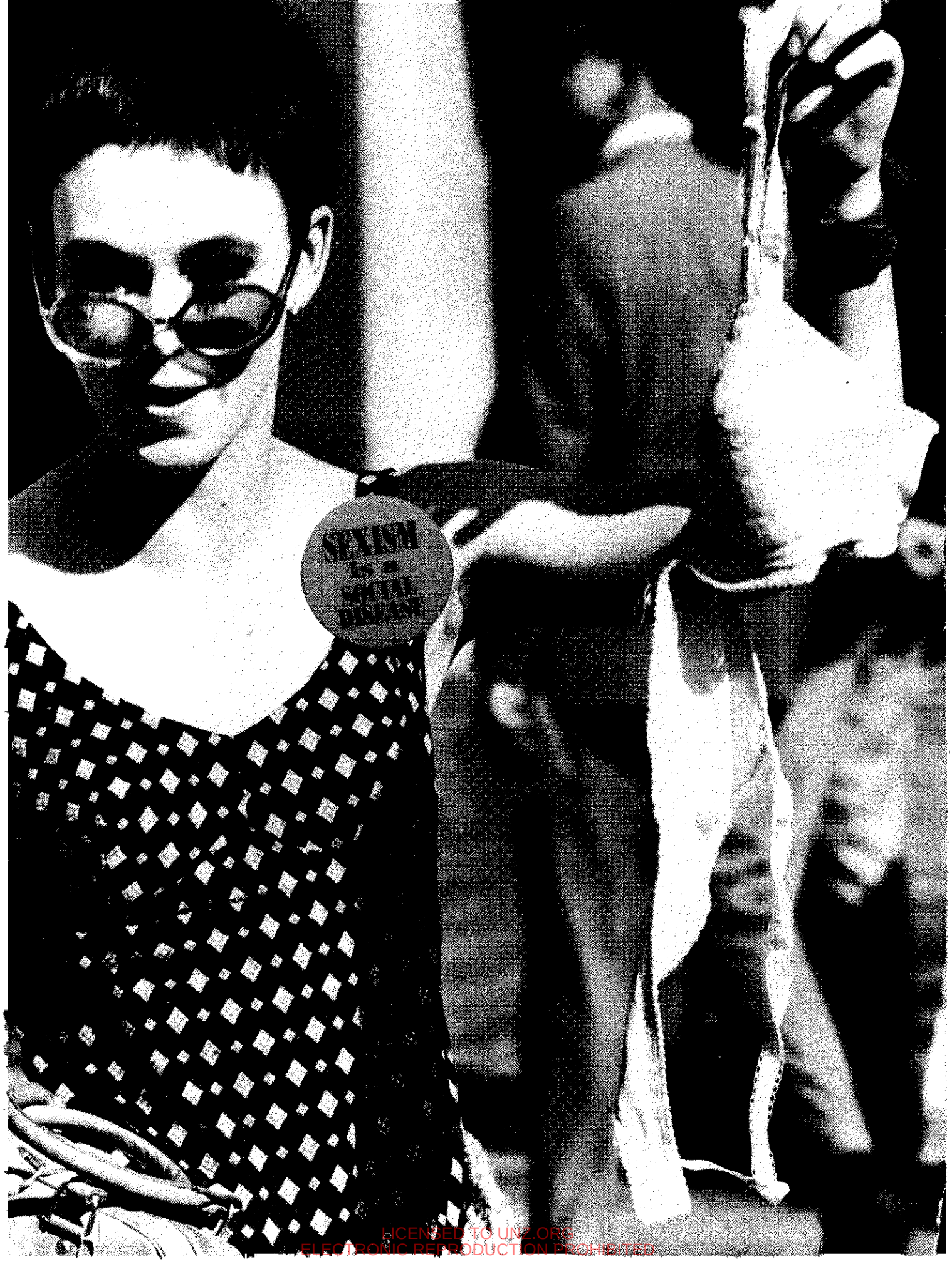

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You've Lost Your Way, Baby

How organized feminism has made itself irrelevant

Catherine Seipp

WHAT IF THEY tried to revive feminism's official media mouthpiece and nobody cared? That's what's been happening with *Ms.* magazine, which says something about the general state of organized feminism today. Last fall *Ms.* was sold to the Feminist Majority Foundation (FMF), which announced plans to hire a new editor and move the faded publication from New York to the group's Los Angeles home base. But even as the 30th-anniversary spring issue, featuring founder Gloria Steinem on the cover, was hitting the stands in March, the group was still advertising for an editor-in-chief.

The position was finally filled in May by investigative reporter Tracy Wood, formerly of the *Los Angeles Times* and *The Orange County Register*. Strangely, the first media mention of the new hire did not appear until a *New York Post* story in early July—one sign among others of *Ms.* having dropped off the cultural radar screen.

The relaunched *Ms.* is finally hitting the stands now, with a Fall 2002 issue. (FMF reduced the original bimonthly schedule to quarterly but hopes to return to bimonthly publication in January.) Steinem confidently told the *San Francisco Chronicle* that "the need for *Ms.* has never been greater than it is right now."

At its peak, in 1976, *Ms.* had a circulation of 500,000; it now limps along at an unaudited figure of around 110,000. But the magazine's decline can be measured by more than its diminished circulation. You might have expected that landmark 30th-anniversary issue with the Steinem cover to get some major play. But media coverage last spring was practically nil, aside from a few brief reports and a *Nation* feature that noted the aging crowd at the magazine's birthday celebration in New York: "The contents of the giveaway goody bags were largely restricted to estrogen replacement." When *The Nation* starts making jokes about menopause, you've slipped a long way, baby.

If *Ms.* hadn't been technically dead before the FMF took it over—it ceased publication entirely for a while in 1998 before Steinem revived it as a nonprofit—you could be forgiven for not realizing it was still around. One of the last bursts of publicity the magazine got came a few years ago, when it hired the disgraced columnist Patricia Smith, who had been forced to resign from *The Boston Globe* after she admitted making up sources and quotes.

Yet despite the media dry spell, when I called repeatedly asking to interview someone from the FMF about its efforts to resuscitate *Ms.*, I got nowhere. The spokeswoman waffled for weeks

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and then finally declined, after explaining that she found some articles on the **reason** Web site "anti-feminist."

Such Big Nurse control-freakism from the *Ms.* crew isn't really surprising: Feminist leadership has developed a habit of lashing out at anyone who questions the party line. For example, the outspoken Tammy Bruce, former president of the National Organization for Women's (NOW) Los Angeles chapter, is now considered persona non grata by traditional feminists. (More on that later.)

Or consider the feminist response to the recent effort by infertility doctors to educate women about the problems of waiting too long to have children, the subject of a *Time* magazine cover story last spring. As *Time* pointed out, a survey had revealed that very few women (13 percent) realize that fertility begins to decline at age 27; three times that many mistakenly believe it doesn't drop until age 40. The truth is that by age 42, 90 percent of a woman's eggs are abnormal, making it more difficult to conceive and carry a child to birth.

The undying attachment to old shibboleths—on matters from war to leftist politics to abortion—has been a major cause of organized feminism's growing irrelevance.

Yet feminists blasted an American Society for Reproductive Medicine advertising campaign that stated a simple fact which might help many women avoid heartbreak: "Advancing age decreases your ability to have children." NOW President Kim Gandy provided a flurry of disparaging quotes about the campaign to the media. "We don't need to see a ticking clock every time we pass a bus," she told the *Los Angeles Times*. The message that you might end up regretting it if you put off childbirth for too long elicits howls from feminists because it questions one of their dogmas: that women should not for any reason think twice about the career track. This attitude seems about as useful as criticizing physicians for suggesting that maybe it's not so great you've got your own cigarette now, baby.

The undying attachment to old shibboleths—on matters from war to leftist politics to abortion—has been a major cause of organized feminism's growing irrelevance. Feminists have been complaining for years that rumors of the movement's death have been greatly exaggerated, citing among other things the number of women's studies departments on college campuses. But the disconnect between ordinary American women and their self-appointed spokeswomen is now painfully obvious. Only a quarter of women are willing to describe themselves as "feminists" to pollsters, and you can see why: Pretty much every step the feminist leadership takes these days seems to lead to a pratfall, from odd little blips like *Ms.*'s hiring of a disgraced journalist like Smith to the huge media circus surrounding NOW's support for convicted child drowner Andrea Yates.

In a statement last year responding to criticism of the group's involvement with the Yates case, NOW's Gandy maintained that "NOW has not created a legal defense fund for Andrea Yates. NOW is not raising money for her." Her organization, Gandy added, was merely trying to focus needed attention on the dangers of postpartum psychosis. "I have two little girls, and I was never once counseled by my midwife or obstetrician to watch for the well-established warning signs," she complained.

Maybe so, but from lying to infanticide, the feminist movement has long displayed an uncanny instinct for racing in the direction opposite from most people's natural sympathies. That instinct was also on display during the Clinton impeachment spectacle, with its weird sideshow of feminists excusing the president's personal mistreatment of women because of his support for abortion and affirmative action.

One revelation of 9/11 and the ensuing invasion of Afghanistan is the stark contrast between the real world that women live in and feminist dogma. Pollsters have noted that this was the first war women approved of as much as men—not a shock when you consider that bombing Afghanistan has probably done more to help a single group of violently oppressed women than any event since the British banned suttee in India. The feminist response? Hand wringing about the Taliban's replacements and civilian casualties (which now appear to number in the hundreds rather than the thousands), obsessing about abortion, pushing for affirmative action and hate crimes legislation—and suing to find out the true address of the house where ex-Beatle George Harrison died last year.

Wait—what does *that* have to do with women's issues? Exactly. Yet this is what Gloria Allred

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busied herself with last winter. Allred is the well-known feminist attorney who was last in the media limelight for successfully representing an actress who got fired from *Melrose Place* after becoming pregnant. (Producer Aaron Spelling had argued that the actress, cast as a homewrecking vixen, couldn't pull the role off while in the family way.) "The integrity of public records is at stake," Allred said, explaining why Harrison's family, wanting to avoid macabre fans, didn't have the right to falsify the death address. Judging from Allred, Freud's famous query "What do women want?" has a truly banal answer.

Feminists Go to War

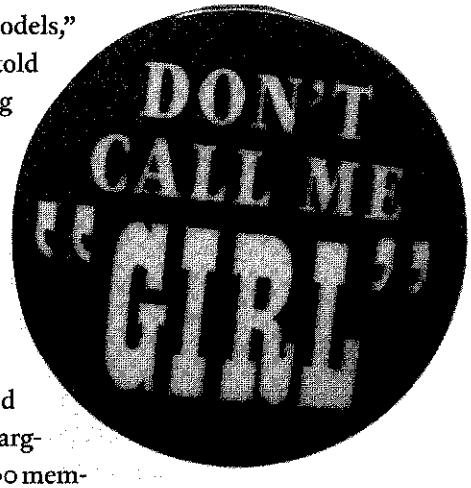
When feminists haven't been waylaid by irrelevant distractions, their attitude toward the post-9/11 world has ranged from tepid support for the war to silly posturing. Gloria Steinem, Alice Walker, Susan Sarandon, Eve Ensler, and about 80 other members of the Worldwide Sisterhood Against Terrorism and War circulated a petition last fall protesting the bombing of Afghanistan on the grounds that it "would only punish suffering people and increase the hatred on which terrorists feed."

The Feminist Majority Foundation has also been stuck in a bog of moral equivalency over the war on terrorism. In December its Web site, www.feminist.org, touted an online chat with its founder and president, Eleanor Smeal, "connecting U.S. and International Terrorism." The connection Smeal sees concerns not extremist American mullahs indoctrinating terrorists intent on murdering thousands but (and she's not kidding) anti-abortion protesters. There was also a link to Scarves for Solidarity, a group urging all women to wear the *hijab* (the Islamic headcovering for women) in support of traditional Muslim women—as if the most pressing social problem right now is the possibility that some Muslim women might be stared at.

Multiculturalist feminists have been complaining that "forced uncovering is also a tool of oppression," as two members of the Muslim Women's League wrote in a January *Los Angeles Times* op-ed piece. "As an expression of their opposition to [the Shah of Iran's] repressive regime," they continued, "women who supported the 1979 Islamic revolution marched in the street clothed in chadors. Many of them did not expect to have this 'dress code' institutionalized." Oops!

Turkey, the freest nation in the Islamic world, takes a different tack, forbidding women to cover their heads at public institutions, just as Germany bans Nazi regalia. These countries recognize their vulnerability to particular toxins and ban them to avoid a descent into fascism, not as an expression of it. Of course, head coverings don't need to be illegal in America, and neither do swastikas. But feminists defending the former as just another "choice" should expect little more sympathy than those who defend the latter.

Another lesson to be learned from organized feminism's reaction to 9/11 is that no tragedy is too great, no issue too important, not to be reduced to the most simple-minded identity politics. Those 343 firemen who sacrificed themselves at the Twin Towers? NOW is upset that there were no women among them. Its Legal Defense and Education Fund (NOW-LDEF) is demanding its share of federal disaster relief money. Never mind the widows and orphans; what the world needs now, goes the NOW-LDEF thinking, is more affirmative action.



"The critical thing is role models," Rep. Jane Harman (D-Calif.) told *The Washington Post* after viewing NOW-LDEF's *Women at Ground Zero* video, part of the group's lobbying campaign to steer funds toward recruiting more female firefighters, police, and construction workers.

NOW's activities offer a good reading on the state of organized feminism. It is the movement's largest organization, claiming 500,000 members. (A *Boston Globe* story puts the figure at 275,000.) The second largest is *Ms.*'s new publisher, the 60,000-member Feminist Majority Foundation. FMF deserves great credit for publicizing atrocities against women in Afghanistan years before anyone else cared. But it's worth noting that Mavis Leno, who used her celebrity connections (she's Jay Leno's wife) to spotlight the situation, originally joined FMF's board in 1996 because she wanted to help defeat California's Proposition 209, which banned racial and gender preferences in state universities and other public institutions. That proposition won by a wide margin overall and garnered more than half the female vote. Yet

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the organizations that purport to speak for women were fiercely against it. Little wonder most women feel free to ignore organized feminism.

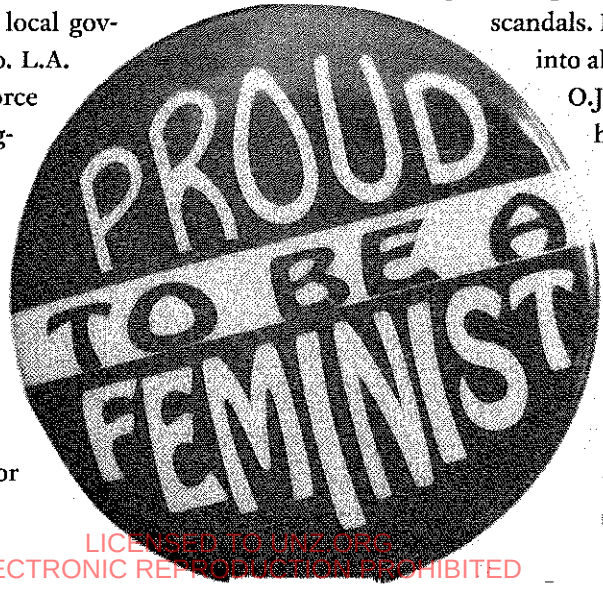
Girls Don't Need Special Help

It's not hard to figure out why so many women dislike affirmative action, even if official feminists don't get it: Girls are generally better students than boys, and it's insulting to suggest that they need special help getting into college. They certainly *don't* need rigged policies that keep them out in the name of social justice. The passage of Proposition 209 meant, among other things, that black or Hispanic male applicants could no longer be admitted to California's top public universities over better-qualified Asian or white females. This policy affects many more women than the small number who might hope to be firefighters.

Although feminism's party line about affirmative action is out of touch with the needs of actual women, it continues to be part of the standard patter about "women's issues." I went to hear Los Angeles City Councilman Eric Garcetti during his campaign last year, and he launched into the usual pandering spiel about "gender equity." Garcetti cited as an example of unfairness that only around 13 percent of city contracts go to women, even though at least half of all new businesses are started by women.

Actually, women are becoming self-employed at something like 12 times the male rate, as Daniel H. Pink pointed out in his 2001 book *Free Agent Nation*. Many, perhaps most, are work-at-home types like me. City contracts are the last thing on our minds. When we think of the government at all in relation to our business, it's usually because we don't want it interfering with how we earn our (quiet, nonpolluting) livings.

In fact, the last time I had reason to consider my work in connection with local government was a few years ago. L.A. was then threatening to enforce a $25 annual home office registration fee and collect city income tax on a percentage of home office earnings. You can imagine how that went over here in Hollywood, home of the bathrobe-clad screenwriter.



Some have argued that the feminist establishment's major problem is that its leadership is heavy with aging baby boomers, stuck in the outdated concerns of their youth. But the Third Wave Foundation, an organization of feminists up to the age of 30, is equally dedicated to parroting the same out-of-date platform, except they're bossier and remarkably clueless.

"Hey! Been to a movie? Walked down the street? Spy any sexism lately?" asks the foundation's "I Spy Sexism" campaign, which suggests sending postcards informing the wrongdoers of their wrong deeds. Third Wave isn't just against the usual age, gender, sexual orientation, and race inequities; it includes "economic status or level of education" in its list of unfair discrimination. Presumably you should send a postcard to your bank if you were denied a loan just because you have no income.

Left Out

Looking at dominant feminist concerns now, you might think that abortion is illegal, that Muslim women are being arrested in the U.S. for wearing head scarves, that girls are unfairly kept out of college, and that women's fears about crime have more to do with right-wing nuts attacking lesbians than street rapists or garden-variety wife beaters. Woe to anyone who questions this received wisdom. Consider the case of Tammy Bruce, whose experiences with NOW highlight how feminism has been almost totally subsumed in the general morass of non-gender-related leftist concerns.

Conventional wisdom has it that feminists began losing credibility during the Clinton scandals. But I first noticed the slide into absurdity in 1995, during the O.J. Simpson trial. Bruce, then head of NOW's Los Angeles chapter and a local talk radio host, had criticized Simpson on the air as a wife beater for months. After the not-guilty verdict, she organized a protest rally that attracted 5,000 people.

Surely using the Simp-

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son case to focus on domestic abuse was exactly what an L.A. feminist *should* have been doing. But NOW's national leadership, furious at Bruce for damaging feminist alliances with black leaders, called their L.A. renegade "racially insensitive" and "insidious" in multiple press releases.

"I was a thorn in the side of NOW from the beginning," says Bruce, who describes herself as a "gun-owning, openly gay, pro-choice, pro-death penalty, liberal feminist who voted for Ronald Reagan." Bruce's recent book, *The New Thought Police: Inside the Left's Assault on Free Speech and Free Minds*, details her disillusionment with the women's movement, which she describes as "socialism masquerading as feminism, group rights as opposed to the individual."

One cliché about women is that they put everyone's needs above their own. NOW's behavior during the Simpson trial, which put racial sensitivity before the women's issue of domestic abuse, was an object lesson in how this cliché can be true. So are organized feminism's stance on affirmative action and its multiculturalist worry about offending the Muslim world by criticizing its reactionary traditions regarding women.

The women's movement remains deeply rooted in the soil of the orthodox left. As Bruce notes, Betty Friedan belonged to the Communist Party, Gloria Steinem is honorary chair of the Democratic Socialists of America, and immediate past president of NOW Patricia Ireland wrote about her support of the Communist Party in her 1999 autobiography, *What Women Want*. It causes problems "when you attach a social activism agenda like feminism to one side of the political spectrum," Bruce told me. "As I argued to NOW, if we had not attached women's rights to one party, we would not be having these [relevancy] problems."

Race and multiculturalism aren't the only issues that feminists have put before women's interests. They have done the same with the gay agenda, specifically its push for hate crime laws. A woman may need hate crime legislation like a fish needs a bicycle, but feminists never seem to worry that demanding stronger punishment for "hate" crimes risks a return to the bad old days of men getting light sentences for "love" crimes of the old "Ruby, Don't Take Your Love to Town" variety by making one's emotional motive dispositive in criminal sentencing. (Historically, enraged, cuckolded men who committed crimes of passion against their wives or girlfriends often were viewed fairly sympathetically by judges and juries.) The sad fact is that far more women are killed by angry husbands or boyfriends—1,218 in 1999, according to the U.S. Department of Justice—than gays are killed because they are gay. The FBI reported 17 "hate-motivated" murders of *any* type in 1999, the latest year for which data are available.

Bruce makes a strong case that an obsession with uncommon tragedies like Matthew Shepard's killing by strangers obscures the far more common situation of women being killed by men they know. She points out that in 1998, the same year that Shepard was left to die on that fence outside of Laramie, Wyoming, another grisly murder happened there. But you've probably never heard of 15-year-old Daphne Sulk, who was stabbed to death by her 38-year-old boyfriend after he got her pregnant. Daphne ended up just as dead as Matthew, even if her death never made the national news. And while Matthew's killers were sentenced to life in prison without the possibility of parole, Daphne's was convicted only of voluntary manslaughter. (See "The 'Hate State' Myth," May 1999.)

Another major problem with the women's movement, aside from its mindless fealty to leftism and obsession with abortion, is that its spokeswomen just haven't sounded very smart lately.

It's rare to find a feminist group that ever mentions Daphne Sulk. Yet they regularly beat their drums about hate crimes legislation, even—especially—when it has little to do with women.

The Red Herring of Abortion

One reason feminist groups didn't turn Daphne Sulk into their new poster girl may be because she'd refused to have an abortion. As Bruce notes, this is "not exactly the kind of person the left wants to immortalize."

Three decades ago, feminist activist Flo Kennedy said that if men could get pregnant, abortion would be a sacrament. In the days of ineffective or unavailable birth control and back alley abortions, that statement packed a lot of punch. Not any more. Abortion *has* become a sacrament. I am not now, nor have I ever been, against abortion rights. It's hard not to notice, though, how feminists continue to place abortion above issues with a bigger effect on women's

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Then and Now

Women's progress, 1960–present

- 73.1 life expectancy at birth for women in 1960
- 79.7 life expectancy at birth for women in 1999
- 66.8 life expectancy at birth for men in 1960
- 74.1 life expectancy at birth for men in 1999
- 41.3% percentage of bachelor's degrees awarded to women in 1960
- 56.4% percentage of bachelor's degrees awarded to women in 1996
- 31.0% percentage of Master's degrees awarded to women in 1960
- 58.2% percentage of Master's degrees awarded to women in 1996
- 3% percentage of law degrees awarded to women in 1960
- 43.5% percentage of law degrees awarded to women in 1996
- 402,000 number of businesses owned by women in 1972
- 6.47 million number of business owned by women in 1997
- 20 number of women in Congress in 1960
- 73 number of women in Congress in 2002
- 57% average of women's (ages 16–29) weekly earnings as a percentage of men's in 1974
- 91% average of women's (ages 16–29) weekly earnings as a percentage of men's in 1993
- 11% percentage of corporate boards with women in 1973
- 13% percentage of corporate boards with women in 1998
- 2.5 the number of times as fast women's wages grew between 1960 and 1994 compared to men's

Source[s]: *Women's Figures: An Illustrated Guide to the Economic Progress of Women in America* (Independent Women's Forum, 1999); "2001 Statistical Abstract of the United States" (U.S. Census Bureau).

lives. Surely one reason the feminist movement has lost credibility is precisely because women *are* beginning to notice.

George W. Bush is not exactly a right-to-life crusader. As Andrew Sullivan pointed out during the 2000 presidential campaign, the 100-plus judges Bush appointed while governor of Texas actually extended abortion rights in that state. The Texas Right-to-Life Committee called the Texas Supreme Court's 1999 ruling in favor of a 17-year-old's right to an abortion without informing her parents "shocking." Laura Bush has stated that she thinks abortion should be legal; Attorney General John Ashcroft has said that he considers *Roe v. Wade* "settled law." But feminists still paint Bush as a pro-life zealot and ally themselves relentlessly and totally with the Democratic Party.

Anti-anti-abortion paranoia helped defeat former Los Angeles Mayor Richard Riordan's gubernatorial hopes last spring. Although the liberal Republican believes abortion should remain legal, his opponent, Gov. Gray Davis, brought up some old personal statements against abortion that Riordan, a Roman Catholic, made in the early '90s. I remember feminists using similar scare tactics during Riordan's mayoral campaign 10 years ago—as if the mayor of Los Angeles, who can't even control the city council, actually has the power to ban abortion.

All this was especially bizarre because abortion has been a nonissue in California dating back to six years before *Roe*. Ronald Reagan, of all people, signed into law the most liberal abortion rights act in the country in 1967, when he was California's governor. The law made abortion completely legal for any reason in the first 20 weeks of pregnancy—well into the second trimester. (*Roe* calls for some restrictions after the first 13 weeks.) Since the beginning of this year, women don't even need a prescription to get emergency postcoital contraception from California pharmacies. Yet the feminist movement seems determined to snatch defeat from the jaws of victory.

When President Bush expanded a government health care program to include pregnant women in February, he classified the fetus as

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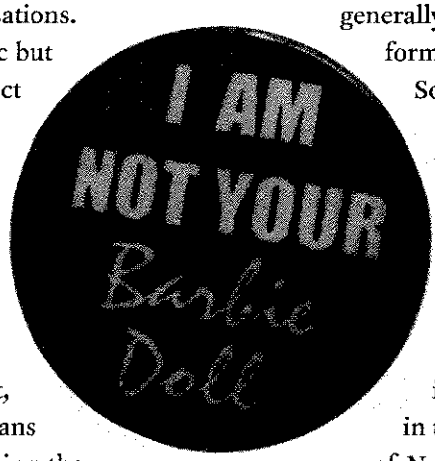
an "unborn child" eligible for health care. The feminist Web site Women's Enews made this its "Outrage of the Week." But if the result is that poor pregnant women get prenatal care, is that such a terrible thing? More women would like free medical care from the government than would like an abortion, but you'd never know it from listening to feminist organizations.

Instead they provide dramatic but misleading statistics, such as the fact that some 80 percent of U.S. counties have no abortion providers. This says as much about the state of rural health care as it does about abortion: Most of the 3,143 counties in the U.S. are thinly populated "nonmetropolitan" counties, as the Census puts it, and almost half have no obstetricians or gynecologists at all. If classifying the fetus as an unborn child makes it easier for poor women to get health care, it seems strange for feminists, of all people, to be outraged.



Granted, you can't expect abortion rights activists to want a fetus described as anything but a fetus. But this seems to be more a matter of semantics than an omen of abortion restrictions to come. Feminist groups were similarly up in arms last year because of the federal Unborn Victims of Violence Act, which increased penalties against criminals who attacked pregnant women. But the law specifically exempted legal abortion, and one criminal law professor told *The New Republic* that he saw nothing in it "that would undermine *Roe v. Wade*." The protests against such semantic transgressions seem hysterical in the most basic sense of the word.

Foot-in-Mouth Disease

Another major problem with the women's movement, aside from its mindless fealty to leftism and obsession with abortion, is that its spokeswomen just haven't sounded very smart lately. The moribund situation of the movement's flagship magazine *Ms.* is just the most obvious example. For another, turn to Boston University journalism professor Caryl Rivers. Last winter she railed against the notion of liberal bias in the media, arguing in *The Boston Globe* that leaders of the tiny (600-member) Independent Women's Forum (IWF), a conservative women's group, appear on talk shows and the op-ed pages of major newspapers regularly, while NOW and FMF leaders don't.

Rivers brought up a good point, even if it wasn't exactly the one she was trying to make. Mainstream media *are* generally sympathetic to the NOW and FMF platforms. They are also unsympathetic to IWF. So if feminist leaders aren't appearing on the op-ed pages, the most likely reason is that they've failed to provide a fresh or convincing argument.

One of the minor casualties of 9/11 was patience for listening to privileged Americans complain, in distinctly anti-American terms, about their privileged American lives.

That feminism seems to have lost its voice can be seen in the recent implosions of Naomi Wolf and Susan Faludi, who reigned during the '90s as the movement's major intellectual media darlings. But if they came in with a bang in 1991—Wolf with *The Beauty Myth* and Faludi with *Backlash*—they've gone out with a whimper. The decline of Faludi began in 1998, when the British novel *Bridget Jones's Diary*, which was very popular with women, if not with feminists, arrived in the U.S. (It was first published in the U.K. in 1996.) The novel's running joke was that Bridget was always *meaning* to read *Backlash*, but just kept getting bored. A media icon's days are numbered once she's perceived as simultaneously worthy and dreary.

Still, the severe media backlash against Faludi and her last book, *Stiffed: The Betrayal of the American Man* (1999), was remarkable. If *Backlash* revived American feminism, *Stiffed* began hammering the nails into the coffin. The premise of *Stiffed* was that *men* were "in crisis," "in agony," and that *something* must be done.

Like what? Like "learning to wage a battle against no enemy," Faludi suggested vaguely (and with one hand clapping, no doubt). That was pretty much it, except that the argument was extended for some 600 pages. Even those generally on Faludi's side got impatient. "She should have *said* she was talking about class," Judith Shulevitz wrote grumpily in *The New York Times*. "She said she was talking about gender." Despite the sort of massive publicity send-

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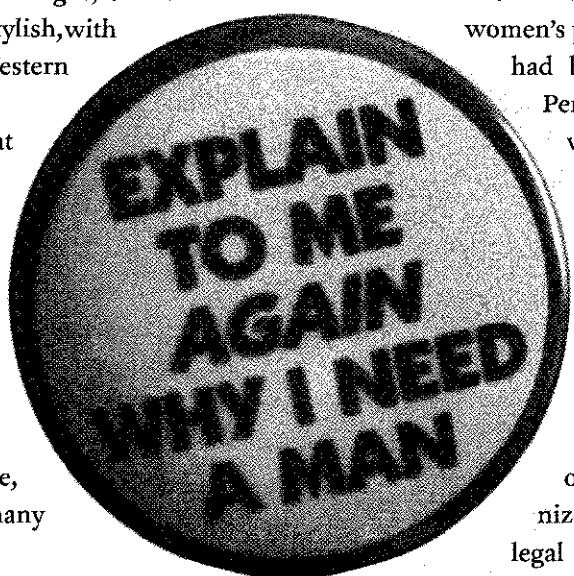
off authors dream about, including a 5,000-word excerpt in *Newsweek,* the book sank without a trace.

Even deadlier was the reaction last fall to Naomi Wolf's *Misconceptions,* a mesmerizingly nutty polemic about what she calls "the hidden truths behind giving birth in America today." (That's compared to the sheer delight of giving birth in the rest of the world, of course.) The bland trade journal *Publishers Weekly,* which hardly has an anti-feminist ax to grind, irritatedly dismissed the book as "a weirdly out-of-touch bid for personal attention."

Now that the standard polite flip-through of the neighbors' hospital baby pictures means viewing a bloody color close-up of baby's emerging head and mom's genitalia, you may wonder just what truths about giving birth are still hidden. But perhaps you had no idea that pregnant women "in our culture" (to use Wolf's favorite phrase) often have Cesareans, even when they'd hoped not to; that they are typically exhausted and sometimes feel like they're losing their minds; that new moms still get up more than new dads to deal with howling infants in the middle of the night; or that maternity clothes tend to be unstylish, with a cruel lack of selection in Western wear.

If feminism doesn't want to completely wear out women's patience—and men's, too—it had better find a new agenda.



Yes, she's serious about that one. "You could not be a cowgirl and a mother," Wolf observes glumly, describing another day "mourning the loss of the young woman I had been" while rifling the racks at the mall. "You could not be a heartbreaker and a mother.... You could not, in our culture, easily pair motherhood with many other alluring archetypes."

As opposed to what other culture? Are there really maternity shops selling *Annie Get Your Gun* outfits in Iraq or India? But Wolf remains starry-eyed about the obstetrical wonders of the non-American world. In Europe and Belize, she instructs one annoyed obstetrician, episiotomies are less necessary because midwives massage the perineal area with warm oil. There's hardly anywhere on the planet, in fact (except the bad old U.S.A.), that Wolf doesn't imagine as a garden of perineum-massaging delights.

"In Greece, Guatemala, Burma, China, Japan, Malaysia and Lebanon," she tells us, "women who have given birth are expected to do little more than lie in bed" for a long, leisurely postpartum. And in Hartford, Hereford, and Hampshire, hurricanes hardly happen—to cite another statement that sounds good but makes little sense. "Cross-culturally," Wolf continues, "women's pregnancy is marked by ceremony: a festive meal in China, a visit to a Shinto shrine in Japan, a blessing in Malaysia." Or maybe by a stoning in Nigeria if they're pregnant and unmarried, or a forced march to the abortion clinic in China if they're pregnant with another daughter instead of a son. But Wolf doesn't get into any of that. To quote *Publishers Weekly* again, "What stands out with embarrassing clarity is [Wolf's] emphasis on the sufferings of a privileged minority."

Precisely. One of the minor casualties of 9/11 was patience for listening to privileged Americans complain, in distinctly anti-American terms, about their privileged American lives. If feminism doesn't want to completely wear out women's patience—and men's, too—it had better find a new agenda. Perhaps one that is, to start with, less blatantly foolish, and more engaged with the issues that women regularly tell pollsters they care most about: crime, the economy, child care, balancing work and motherhood, their children's schools. It might help if organized feminism recognized that, among other things, legal equality already exists. If feminism wants to become vital again, it must first acknowledge the successes that it helped to achieve. ▮

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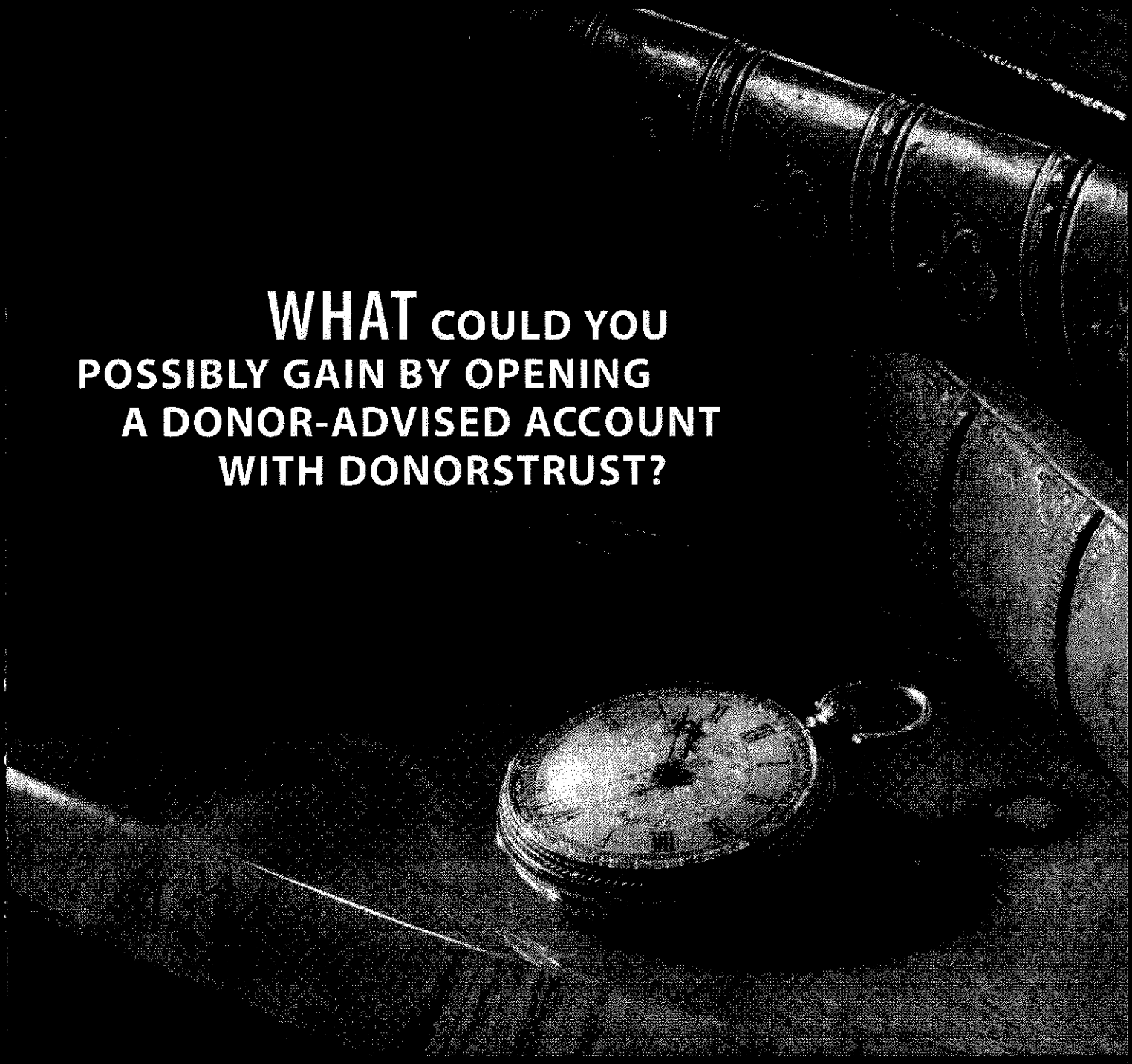

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Biology vs. the Blank Slate

Evolutionary psychologist Steven Pinker deconstructs the great myths about how the mind works.

Interviewed by
Ronald Bailey and
Nick Gillespie

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Steven Pinker has been called "science's agent provocateur" by the *Guardian*, named an "evolutionary pop star" by *Time*, hailed as a "wunderkind" by *The Washington Post*, and acclaimed by the London *Times* as both a "world-class cognitive psychologist" and a "stud-muffin of science." Yet Pinker, a professor of psychology in the Department of Brain and Cognitive Sciences at the Massachusetts Institute of Technology, is more than a scientific superstar. He's also the author of the bestsellers *How the Mind Works* and *The Language Instinct*. His new book, *The Blank Slate: The Modern Denial of Human Nature* (Viking), is likely to continue his string of publishing successes—and to keep him at the red-hot center of discussions over the meaning and implications of the increasingly important field of evolutionary psychology.

Evolutionary psychologists such as Pinker argue that the human mind, like the human body, has been designed by natural selection through the process of biological evolution. Insights from evolutionary psychology are dramatically transforming the ways in which political scientists, economists, anthropologists, social psychologists, linguists, and cultural studies critics think about social and political institutions. If Pinker and his colleagues are right, it turns out that there really is an innate human nature common to all people.

To be sure, this is not your grandfather's human nature. Evolutionary psychologists argue that the brain is a physical system with built-in neural circuits designed to generate environmentally appropriate behavior. These neural circuits are specialized for handling different adaptive problems, and most brain functioning is unconscious. Because our brains evolved to handle problems faced by our Stone Age ancestors, some innate behaviors are maladaptive in the modern world. These range from our tendency to divide people into in-groups and out-groups to our sweet tooth, which helped our ancestors select ripe fruit in a world where food was scarce, but leads to obesity for many in societies where food is abundant. Innate brain modules exist for activities such as social learning, language, feeding, mating, and many other unconscious behaviors. Many of these neural

Donna Coveney

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"Our fantasy lives may not be that different
from those of the Yanomamo warrior. But
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circuits have been mapped by brain scans and by clinical studies of brain-damaged people.

Evolutionary psychology is addressing age-old questions about human nature. Are people inherently good? Are they social animals? Are they rational, utility-maximizing individuals? If both nature and nurture shape our characters and determine our destinies, what is the precise contribution of each? Do we have free will? These questions lie at the heart of centuries-long political, philosophical, and religious conflicts. And the answers inform how we think social, political, and economic life should be organized.

Evolutionary psychology discomfits many intellectuals and scientists and Pinker has been savagely attacked by both the left and the right. Marxists such as Harvard's Richard Lewontin and the late Stephen Jay Gould assert that evolutionary psychology is little more than fatuous cocktail party speculation, while conservative commentators in *The Weekly Standard* and *First Things* charge Pinker with trying to undermine the religious basis of morality.

The Blank Slate, which combines scientific insights from genetics, neuroscience, computer science, and evolutionary biology, is Pinker's rejoinder to such critics. In it, he masterfully deconstructs what he calls the main "myths" about human psychology that have dominated and distorted intellectual discourse about human nature for the last century.

Pinker, a native of Montreal, received his B.A. from McGill University in 1976 and his Ph.D. in psychology from Harvard in 1979. After serving on the faculties of Harvard and Stanford he moved to MIT in the early 1980s.

reason Science Correspondent Ronald Bailey and Editor-in-Chief Nick Gillespie spoke with Pinker this May in Washington, D.C., where he delivered a lecture at the Carnegie Institution.

reason: What is the aim of your new book, *The Blank Slate*?

Steven Pinker: To explore why the concept of human nature and biological approaches to the mind in general are seen as so politically suspect. Why do they arouse so much emotion? Why do people think that there are great moral issues at stake, as opposed to empirical issues about how the human mind works?

Some of the issues I explore are concerns of the left, which sees evolutionary and genetic approaches to the mind as reactionary. Others annoy the right, which thinks that a materialist view of the mind that incorporates computation, neuroscience, evolution, and genetics undermines the basis of morality and leaves us with only a dangerous amoralism.

reason: You talk about three modern "myths" in the book: the blank slate, the noble savage, and the ghost in the machine. Explain them briefly.

Pinker: The blank slate is the doctrine that the mind has no unique structure and that its entire organization comes from the environment via socialization and learning. The blank slate mentality is popular with people who believe that any human trait can be altered with the right changes in social institutions. It's popular in the more radical branches of feminism, although not with the original core of feminism that stressed the drive for equity between the sexes. I think it allies to some degree with Marxist approaches to society. Not that Marx literally believed in a blank slate, but he certainly believed that you could not intelligently discuss human nature separate from its ever-changing interaction with the social environment.

The doctrine of the noble savage is that people have no evil impulses, that all malice is a product of social institutions. The noble savage myth is behind the sensibility that violence is learned behavior, a slogan that is repeated endlessly whenever violence is chronicled in the news. It's also behind the Romantic idea that violent nonconformists are actually seeing the hypocrisy of society and challenging social institutions from a marginalized viewpoint, as opposed to the idea that such people are psychopaths and that we should prevent them from wreaking havoc on everyone else.

The doctrine of the ghost in the machine is that people are inhabited by an immaterial soul that is the locus of free will and choice and which can't be reduced to a function of the brain. The ghost in the machine [idea] lies behind the religious and cultural right—literally in the case of people who want to couch the stem

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we don't actually act on them.
necessarily in our actions."

cell debate in terms of when ensoulment occurs. But it's there in a vaguer way, too, among others who fear that a materialist viewpoint—the idea that human experience and choice are products of a physical organ called the brain—is corrosive of morality, meaning, and ultimate purpose.

reason: Why do you call these ideas myths?

Pinker: Because they're wrong. Let's talk about the blank slate. Just on logical grounds, blank slates don't do anything. They just sit there. *Human beings* do things. They make sense of their environment, they acquire language, they interact with one another. They use reasoning to bring about things that they want. Even if you acknowledge, as you have to acknowledge, that learning, socialization, and culture are indispensable aspects of human behavior, you have to admit that you can't have culture unless you have some kind of innate circuitry that can invent and acquire culture to begin with.

The noble savage [myth] has been refuted by studies of hunter-gatherers and societies more generally that show how violence and warfare are a human universal. The reports of tribes out there somewhere who never heard of war have turned out to be urban legends. I think many Western intellectuals had always been impressed that in many battles among hunter-gatherers, the battle is called off as soon as the first couple of people are killed. That led to the idea that warfare among pre-state societies was largely ritualistic. But in fact, if you do the numbers and count the bodies, two deaths in a band of 50 people are much bigger than the September 11th casualties in a society our size.

Careful studies show that hunter-gatherers are dead serious about war. They make weapons as destructive as their ingenuity permits. And if they can get away with it, they massacre every man, woman, and child. In our own society, which is far more peaceful than the native groups, if you ask people whether they have ever fantasized about killing someone, anywhere from 70 percent to 90 percent of the men and about 40 percent to 60 percent of women say that they have.

reason: And the rest are lying.

Pinker: (laughs) There are also parts of the brain that seem associated with violence and outbursts. We know this partly because of accidents or operations through which certain portions of some people's brains were removed. Some sort of inhibitory brake was removed, and the individuals became more prone to violence.

As a cognitive scientist, I go back to thinking the problem through mechanistically. Just as in the case of the blank slate, you can't have learning without some kind of learning machinery. Human violence is highly nonrandom behavior. It's not the kind of thing that can arise from a simple malfunction. There's a popular notion that violence is a kind of disease or a public health problem; that's what all of the mental health agencies believe.

reason: You say in *The Blank Slate* that Hobbes was right and Rousseau was wrong. Is civilization basically the development of institutions designed to rein in male violence?

Pinker: I think that's got a lot of truth to it, absolutely. That's what the rule of law is, and that's what a democracy is for. I don't think it's wiped out these impulses, and our fantasy lives may not be that different from those of the Yanomamo warrior. But we don't actually act on them. We can have lust and mayhem in our hearts, but not necessarily in our actions.

reason: Why is the ghost in the machine doctrine a myth?

Pinker: Neuroscience is showing that all aspects of mental life—every emotion, every thought pattern, every memory—can be tied to the physiological activity or structure of the brain. Cognitive science has shown that feats that were formerly thought to be doable by mental stuff alone can be duplicated by machines, that motives and goals can be understood in terms of feedback and cybernetic mechanisms, and that thinking can be understood as a kind of computation. Not computation the way your IBM PC does computation, but computation nonetheless—a kind of fuzzy analog to parallel computation. So intelligence, which formerly seemed miraculous—something that mere matter could not possibly accom-

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"We're stuck with brains that give us pleasure and satisfaction from certain outcomes. We I don't see what's so terrible about satisfying those

plish or explain—can now be understood as a kind of computation process.

reason: Do you feel like we're going through a cycle of anti-science sentiment, of technophobia? Biotechnology, in particular, has raised the ire of both the right and the left.

Pinker: I think part of the fear of biotechnology really comes from a notion of the ghost in the machine. One of the great fears of cloning—the absurd idea that cloning is going to create an army of mindless drones—comes from a mental model of cloning that says that it's duplicating the body without a soul. The other fear is that it is some kind Faustian grab at immortality, a hubristic desire to make ourselves immortal. That relies on a mental model of cloning as duplicating the soul together with the body. So if I clone myself, that's actually going to be me. So much of the debate on cloning comes from these misconceptions of what it is. Which I think makes perfect sense, if the mental model that most people have of other humans is a body inhabited by a ghost.

I also think there's a notion of purity vs. contamination at work. It's a kind of noble savage myth. Cognitive psychologists call it "intuitive essentialism"—that living things have an essence that gives rise to their biological properties. It's easy to think of genetically modified foods as living things whose essences have been contaminated by polluting elements as opposed to the biological view, which is that organisms are bundles of genes which vary continuously over the course of evolution.

reason: In an earlier book, *How the Mind Works*, you say it's possible we will never understand the mind. Do you still believe that?

Pinker: We may never understand it at an intuitively satisfying level. From a scientific standpoint, I think we can be satisfied that every aspect of conscious experience can be tied to or caused by some process in the brain. But what it actually *feels* like to have a brain is one of these age-old paradoxes that probably is an artifact of the way our mind conceptualizes things. I would liken it to our puzzlement over how time can begin at the Big Bang. It's impossible not to think, well, what was it like *before* the Big Bang? Or, what is the effect of the universe being curved in the fourth dimension—what exactly does that look like? There, the problem is not a deficit in physics; the problem is a deficit in our own intuition. There is an aspect of reality that can never be intuitively satisfying even though our best science tells us that it is true.

reason: In the new book, you suggest that "we may have to make room for a pre-scientific explanatory concept in our view of human nature—fate." What do you mean by that?

Pinker: By *fate*, I don't mean divine preordination. I mean uncontrollable fortune. We can't account for about half of the variation in things like personality and intellect. I suspect that this 50 percent of the variation that is neither in the genes nor in the family may be chance events in development, the way your brain wires itself up within the constraints of the genes.

reason: So for whatever reason, during development, something zigged rather than zagged?

Pinker: Yes, whether the growing axons in your brain zig rather than zag. Whether you inhaled a virus or your mother inhaled a virus, whether you got the top bunk bed or the bottom bunk bed. All kinds of uncontrollable events that may have a profound role in making us who we are. Indeed, there is reason to suspect just from the studies of biological development of simple organisms that chance has to play a role. When you look at genetically homogenous strains of roundworms and fruit flies growing up in a well-controlled monotonous laboratory environment, they are not the same. They have physical differences. They have longevity differences.

reason: You've exposed the essentially materialist roots of human society. How does that *not* translate into humans just being apes, precisely in the way with which the right is so uncomfortable?

Pinker: We *are* apes, but we're our own species of apes. We're not chimpanzees, and we're not gorillas. We're a species of ape that has this outsized brain. Among the faculties of this outsized brain is the ability to learn from his-

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appreciate beauty. We fall in love. We have a sense of justice. particular values."

tory via language and recorded documents. And a moral sense and an ability to perceive consequences of our actions.

I don't really know where the moral sense is located in the brain because, in a sense, it encompasses a number of the different faculties. Morality encompasses a mentality of autonomy and interchangeability of interests. It is also tied to notions of purity and defilement and to notions of conformity to community norms. If you could take any person and tap his or her moral intuitions, you would get this melange of sentiments, not all of which coincide with morality as it would be understood by a moral philosopher.

People, for example, tend to equate morality with high rank. We see that in the language: words like *noble*, which are ambiguous, [meaning both] high ranking and morally exalted. We see it in celebrity worship: People think that Princess Diana and John Kennedy Jr. were highly moral people, but they were pretty average. People tend to blur good looks with morality. You can give them a bunch of photographs and ask them to judge how nice they think the people are. The better-looking people are judged as being nicer.

All that is to say that the psychology of morality is multifaceted. There is no one answer to where morality is in the brain. Recent research has been looking at the part of the brain called the ventro-medial prefrontal cortex, pretty much the part of the brain that sits above the eyeballs. When that is damaged by early brain injury, you grow up with what looks like defective conscience, an inability to empathize, an inability to think through conflict resolution. But I suspect that it's a complex system involving a number of parts of the brain.

We're stuck with brains. These are brains that give us pleasure and satisfaction from certain outcomes. We appreciate beauty. We fall in love. We have a sense of justice and morality. I don't see what's so terrible about satisfying those particular values that our brains provide us with.

In the case of morality there is a kind of built-in logic, namely that it's inherently contradictory to impose a standard of behavior on others that you are not willing to have applied to yourself. An amoral egoist might be able to prevail by sheer brute force by terrorizing everyone else, but if you want to justify the way you behave to others, if you are part of a community in which your well-being depends on others, you are kind of stuck with some kind of moral logic. That's why the universal core of morality across cultures is some kind of golden rule mentality.

reason: How does a materialistic approach play out on the left? Isn't there an impulse to say, "Let's take these human monkeys and train them in a way that is more perfect?"

Pinker: The fear on the left is that if there *is* a human nature, we won't be free to design a better society in the future. They worry that we are marionettes or meat puppets on the ends of strings and that we're doomed to create a world of oppression and inequality. The reason that doesn't follow is that human intelligence is an open-ended combinatorial system.

Language is the prime example: Even if we're equipped with a fixed set of grammatical rules and a fixed vocabulary, we can spin out a mind-boggling array of sentences that have never been uttered before. Each one of those sentences corresponds to a distinct thought. The open-ended creativity of language is just a way of externalizing the open-ended creativity of thought. People can come up with new ways of resolving conflicts or attaining social goals in the same way that they can cook up new technological solutions to problems. You don't need an unconstrained ghost in order to account for human ingenuity.

Additionally, a number of people think that there is a kind of logic that propels human moral progress. This is what [philosopher] Peter Singer refers to as the "expanding circle." Intuitions that may have evolved to deal with life in the clan or the tribe are now enabling us to extend sympathy to other people and treat them as having interests equivalent to our own. Over the course of history, we have expanded that circle out from the clan to the tribe to the nation to both sexes and to all

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"Seeing morality as a product of the brain is less dangerous than the idea that it is ultimately vested in the most recent example where morality derived from religion

races and to all humanity. Having that kind of moral progress doesn't mean that human nature has ever been erased and reprogrammed. It simply means that a gadget that may have evolved to deal with a clan can be applied to larger and larger groups of humans.

reason: Doesn't a materialist approach undermine Enlightenment notions of free will and autonomy? As you point out in your book, people are already using excuses such as, "It wasn't me, it was my amygdala. Darwin made me do it. The genes ate my homework."

Pinker: What we call free will is a product of particular circuits of the brain, presumably concentrated in the prefrontal lobes, that respond to contingencies of responsibility and credit and blame and reward and punishment and alter their operations as a consequence.

Our decision to hold people responsible for their behavior is itself part of the environment in which the brain works. The brain *can* respond to an environment in which people are held responsible, and that's why we should continue to hold people responsible.

More to the point, you don't need to invoke a soul or some mysterious process of free will to hold people accountable. Indeed, one could argue the opposite of that: If we really are totally unconstrained—if there is a self or soul that can do what it damn well pleases—that's when holding people responsible would be futile. The soul could always choose to ignore contingencies of credit, blame, reward, or punishment: "I don't care if you think that I'm a lying, cheating bastard. I do what I damn well please."

reason: There's a cartoon about evolution that shows a sequence in which a fish looks up from a pond, followed by an amphibian, a reptile, and a primate, ending with a guy wearing a tie. The first four figures have thought balloons over their heads that read, "Eat, survive, reproduce." The final balloon, over the man's head, reads, "What does it all mean?" Our genes are interested only in replicating themselves, so evolution has designed us, and all other living things, with that goal in mind. You have written that if you choose not to reproduce, you're saying, "If my genes don't like it, they can go jump in the lake." How does one account for this ability to defy *the* evolutionary imperative?

Pinker: I don't think evolution did design us to reproduce. Evolution designed us to enjoy sex and to love children. Well, *our* children, anyway. There is a fallacy that people easily slip into, especially when they hear explanations of evolution that use the metaphor of the "motives" of genes. It's easy to confuse the metaphorical motives of the genes with the real motives of the whole person.

There's some pedagogical advantage to putting yourself in the mind-set of the genes—to think that genes are driven by this supposed desire to make copies of themselves. But it's important not to confuse that with what *people* want to do. I don't think most people want to make copies of themselves. The way the genes accomplish their metaphorical motive of making copies of themselves is wiring the brain to like sex and to love little children. In a world without contraception, that's enough to get genes to make copies of themselves. If you change the world to one with contraception, and adoption, and many other things that sever these old cause-and-effect contingencies, then you can have the same desires but they do not necessarily result in babies.

reason: What do insights from evolutionary psychology tell us about what society should be?

Pinker: I think a concept of human nature gives you insight into human interests, what makes people happy in general. But this understanding can't provide any insight into how you trade off the happiness of one person against the happiness of another in cases in which they conflict. That's why we will always have politics and moral arguments and so on.

reason: Many critics of evolutionary psychology fear that it may exacerbate social and economic inequalities by justifying them on biological grounds.

Pinker: Whether humans are mentally indistinguishable or not is an empirical question, and we're not going to make people into clones by a desire that they be clones, even on the dubious premise that that is desirable.

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commands of a religious authority. 9/11 is only the leads to horrible atrocities."

Yet we can adopt measures that achieve greater equality if we decide that that is a social good. I think all that biology tells us is that there may be costs as well as benefits. It is not a new idea, but people have pointed out that equality of outcome and equality of opportunity are not only different but they are necessarily in conflict. That doesn't mean necessarily that you have to sacrifice equality of outcome. It just means that different political ideologies can be arrayed on what point along that tradeoff they argue is best.

An extreme authoritarian Marxist would sacrifice all freedom to the goal of the equality of outcome. Perhaps an extreme libertarian position would sacrifice any kind of equality of outcome in favor of equality of opportunity. If those are the terms of the debate, science can't tell us what's the optimum point along that tradeoff.

Now, the moral principle regarding equality is simply that people not be prejudged on the basis of certain group averages, the averages of the groups to which they belong. That is, you should not discriminate against someone based on gender or ethnicity. That doesn't say that all races and all ethnic groups and all genders are indistinguishable, although they may be. It says that you don't even have to worry about that; you should treat individuals as individuals.

reason: The evolutionary psychologist's account of human behavior is clear and succinct, but as the physicist Steven Weinberg says, "The more comprehensible the universe becomes, the more pointless it seems."

Pinker: It may be pointless in some cosmic sense, in the same sense in which there's no point going on living because, as the young Woody Allen character in *Annie Hall* said, "The universe is expanding, and someday it will break apart and that will be the end of everything, so why should I do my homework?" There's a point at which the Woody Allen anxiety—what we might call the "Karamazov worry"—is confusing two levels of analysis. The first scale consists of billions and billions of years and a universe which came into existence and which will go out of existence. The second is the scale of hours, minutes, days, and years in which we live our lives. Just as you don't worry about putting your laptop on the table after the physicist says that it's mostly empty space on an atomic level, you don't worry about life being a sham just because the neuroscientist says that morality comes from the brain.

We are looking inside our brains, and the moral sense is an inextricable aspect of human experience that we have to live with precisely because that's the way our brains are put together. We can go through the mental gymnastics of stepping outside our brains and looking at how it functions, but once we live our lives and deal with one another as individuals, these are the intuitions that we are stuck with. And again, not arbitrarily but for reasons that we can even gain some insight into when we do step outside ourselves.

reason: That wonderful ability of recursion that we have—that we are able to step outside and look at how our brains function—still leaves us feeling a sort of ultimate meaninglessness?

Pinker: (laughs) Yeah.

reason: In other words, except for science, we haven't really gotten much further than Descartes when it comes to grounding meaning and existence?

Pinker: Yes, in some sense. But what's the alternative? It's not as if there is some coherent alternative that we're abandoning. It's not as if God decreed on the day of creation that *this* is the meaning of life. The same curiosity that leads you to step outside yourself to ask, "Why do we have moral intuitions?" also makes you step outside God's world and ask, "Well, what told God to create *that* as the meaning of our existence?"

So you still have that gnawing existential anxiety. But let me go back to the question of whether seeing morality as a product of the brain licenses amorality. In practice, it is less dangerous than the idea that morality is ultimately vested in the commands of a religious authority. 9/11 is only the most recent example of a case where morality derived from religion leads to horrible atrocities.

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Hidden Country

The secret family tree of country music

Damon W. Root

Where Dead Voices Gather, by Nick Tosches, New York: Little, Brown, 330 pages, $24.95

Wrong's What I Do Best: Hard Country Music and Contemporary Culture, by Barbara Ching, New York: Oxford University Press, 186 pages, $22

The indigenous American art form of country music is frequently slandered, shunned, and mocked. It's routinely dismissed as either tacky nostalgia or the soundtrack for menacing rednecks. Often condemned by tastemakers and the tragically hip as one of the most conservative and stifling arenas of popular culture, country is bigger than its detractors imagine. More U.S. radio stations program country music than any other format, while country album sales netted a cool $1.5 billion in 2000. And in spite of the fact that most big city critics probably can't name one of his songs, Garth Brooks is the biggest selling solo act in history.

Two recent books, Nick Tosches' *Where Dead Voices Gather* and Barbara Ching's *Wrong's What I Do Best: Hard Country Music and Contemporary Culture*, help tell country's long, complex, and fascinating story. In the process, the authors map a busy intersection between culture and commerce that has produced not just a sound but a whole set of meanings that has helped delight—and define—millions of American lives.

Nick Tosches has written critically acclaimed biographies of Jerry Lee Lewis and Dean Martin and the indispensable histories *Country* (1977) and *Unsung Heroes of Rock & Roll* (1984). In *Where Dead Voices Gather*, he turns to the forgotten roots of country music. On the surface an account of the life and times of Emmett Miller, a largely unknown blackface minstrel singer, the book is in fact a treatise on the meaning and making of culture itself, laying bare the hidden origins and strange currents of popular entertainment. Tosches gladly tips over more than a few sacred cows, most notably the notion that pop music was stolen from black culture.

Born in Macon, Georgia, sometime around the turn of the 20th century (birth certificates weren't required there until 1919), Emmett Miller was, in Tosches' words, "the most singular emanation of that bizarre twilight fusion of blackface minstrelsy, Tin Pan Alley, and jazz —an emanation through which the forces of country music and the blues swirled as well." At his brief peak in the mid-to-late 1920s, this "yodeling blues singer" emerged as "one of the strangest and most stunning of stylists ever to record."

He transformed yodeling from a novelty into something "plaintive and disarming," a technique appropriated with great success by singers as different as Jimmie Rodgers, Hank Williams, Jerry Lee Lewis, and Bob Dylan. Merle Haggard, one of country music's greatest figures, declared his debt to this mysterious minstrel on his 1973 album *I Love Dixie Blues*, while Western swing legend (and Rock and Roll Hall of Famer) Bob Wills auditioned vocalist Tommy Duncan with Miller's "I Ain't Got Nobody." Tosches convincingly argues that Emmett Miller is "a Rosetta Stone to the understanding of the mixed and mongrel bloodlines of country and blues, of jazz and pop, of all that we know as American music."

Tosches illuminates the myriad ways country inspired contemporary pop culture. In one memorable passage he unearths the origins of black blues shouter Big Joe Turner's "I Got a Gal for Every Day in the Week" in "a ragtime coon song composed in 1900." In another he traces Bob Dylan's "Blind Willie McTell" back through Jimmie Rodgers' "Gambling Bar-Room Blues," Blind Willie McTell's "Dying Gambler," and Louis Armstrong's "St. James Infirmary" to an Irish ballad called "The Unfortunate Rake." And in a story central to the heart of the book, he reveals how Emmett Miller's 1928 version of "Lovesick Blues" became "the direct inspiration for the 1948 performance that 25-year-old Hank Williams rode

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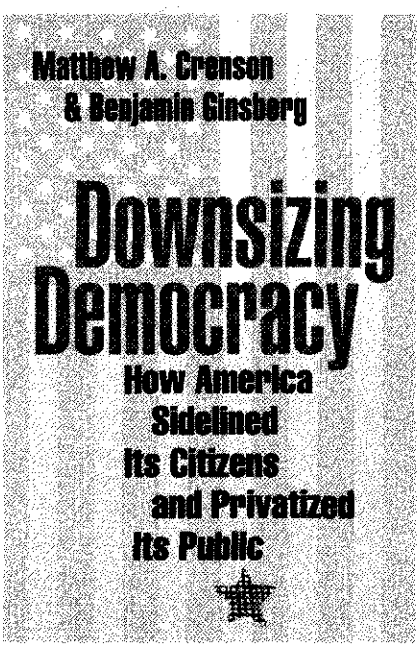
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"Matthew Crenson and Benjamin Ginsberg make a powerful, controversial argument with sweeping implications. Their book is an important contribution to the debate over the state of American democracy that will be influential and widely read."—Donald F. Kettl, University of Wisconsin-Madison

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to fame." These events and countless others like them are, Tosches writes, "the story of American music itself: the story of the black stealing from the black, the white from the white, and the one from the other."

Tosches presents Emmett Miller as a deep source for pop music, one whose influence rippled outward throughout the last century. Consider The Georgia Crackers, Miller's backing band from his 1928 sessions for New York's Okeh label. There is Eddie Lang, "the first great jazz guitarist," who performed with luminaries such as Louis Armstrong and Bessie Smith. Drummers Gene Krupa and Stan King both played in Benny Goodman's celebrated orchestra. The most notable Crackers were Jimmy and Tommy Dorsey, on alto saxophone and trombone, respectively. The Dorsey Brothers Orchestra briefly featured rising superstar Bing Crosby, while Tommy Dorsey's big band introduced a young Frank Sinatra to a world waiting to swoon. In 1956 Elvis Presley made his national television debut on *Stage Show*, a CBS program hosted by the Dorsey Brothers.

Of course Miller was himself another node in a network of cross-influences that long predated him. He was one of the last popular "minstrels." Tosches provocatively describes minstrelsy as "the first emanation of a pervasive and purely American mass culture." A stage show where whites blackened their faces with cork, mimicked the alleged behavior of Southern blacks, and performed songs supposedly created by those blacks, minstrelsy was born and bred in the heart of the North. The first documented performance occurred in New York City in 1769. By the 1820s and 1830s, lower Man-

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hattan was abuzz with performances such as George Washington Dixon's "Zip Coon" and Thomas Dartmouth "Daddy" Rice's song-and-dance routine "Jim Crow." In 1843 the Virginia Minstrels performed the first ever all-blackface program before a capacity crowd at the Bowery Amphitheatre. Soon all blackface performers were known as minstrels.

For some geographic as well as cultural perspective, consider this. The Bowery, a street in lower Manhattan, runs north for about a mile from Chatham Square to Cooper Square. Luc Sante, author of the remarkable urban history *Low Life* (1991), calls it "the proverbial den of all vices." From the early 19th until the turn of the 20th century, this street and its environs were synonymous with lowbrow entertainment. The area was lousy with saloons, dime museums, oyster bars, minstrel theaters, and establishments promising women in varying states of undress.

In 1875 Samuel F. O'Reilly invented the electric tattoo machine and helped found the modern tattoo profession in his shop at 11 Chatham Square. Before opening his famed American Museum, P.T. Barnum had great success at a coffeehouse at Bowery and Division, where he exhibited an elderly woman he claimed was George Washington's wet nurse. In 1859 Bryant's Minstrels debuted the song "Dixie" (written by Northerner Dan Emmett) at 472 Broadway, several blocks to the west. Abraham Lincoln, in New York City shortly before his election, heard "Dixie" at a minstrel show and called for an encore. Today the Bowery is perhaps best known for the punk club CBGB's (an acronym for "country, bluegrass, and blues," incidentally).

"Minstrelsy, coon songs, and blackface humor," Tosches notes, "were a staple of the recording industry since its birth." George Washington Johnson, a Northern black and the first recording star, hit the big time in 1891 with his Columbia label smash "The Whistling Coon." Stephen Foster, America's first professional songwriter, wrote many of minstrelsy's greatest hits. "Oh! Susanna," "Camptown Races," and "Massa's in de Cold, Cold Ground" all flowed from the pen of this lifelong Yankee, a man who had traveled no farther south than Cincinnati. "Foster's South," Tosches writes, "a South dreamt by the North, was a romance embraced by the South itself; for the greatest nostalgia is that for what has never truly been." (Think about *that* the next time Pat Buchanan gets moist about how good everybody had it in the 1950s.)

From Christian fundamentalists to longhaired freaks, every new face makes country bigger than it was before.

Irving Berlin, composer of "God Bless America" and "White Christmas," also wrote "coon songs" (the accepted term at the time), although he achieved greater acclaim with "Sweet Italian Love," a "wop song" (another once-accepted term) that inspired Dean Martin's 1953 hit "That's Amore." Al Jolson, the first true multimedia star, got his start as a blackface minstrel. Bessie Smith, "The Empress of the Blues," began in the Rabbit Foot minstrelsy troupe, as did jazz great Louis Jordan.

Strangely, blacks regularly performed in blackface. "As for the grotesquerie of minstrelsy," Tosches writes, "there were many, both black and white, who found it no more offensive than the comedy built upon any exaggerated ethnic stereotyping." Maybe that sounds insensitive. Well, as those homeboys in Limp Bizkit like to say, he's just "keepin' it real," or as Tony Soprano might counsel, "fuhgeddaboudit."

Tosches saves his deadliest barbs for those fans of blues and folk that "praise the primitive for its own sake," and therefore "embrace in arrogance...the 'beauty' of downtroddenness and misery." He laments the '60s revival of blues singers like Mississippi John Hurt at the hands of white folkies. "A few old and long-forgotten black guys made a few bucks by putting on the required act," he writes, while the sharp suits and snap-brim hats they had worn with such style were notably absent.

It was shameful, Tosches argues, that Hurt was "compelled to assume the persona of a backwoods cotton-field coon imposed upon him by a young white America that saw itself as a force for racial equality and brotherhood." Tosches has little patience for those that equate artistic "authenticity" with deprivation and suffering. "The simple and irrefutable truth," he writes, "is that no human being would rather break his back in the cotton field than take in good folding money by making records." As for the "raw truth" of the blues, "in the recording studio, the blues, like everything else, was...calculated to take the fancy of the marketplace."

Alas, the fancy of the marketplace did not stay long with Emmett Miller. By the late 1920s, when he recorded the politically incorrect songs that now comprise his massively influential yet largely forgotten legacy, the

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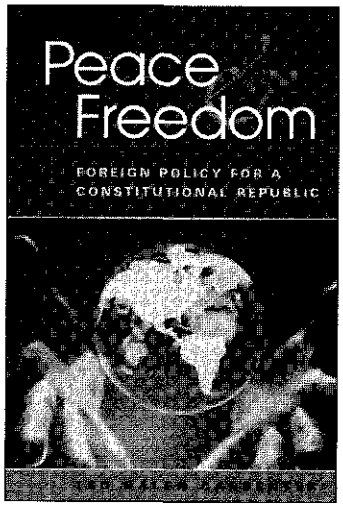

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minstrel world he loved was already near death. Vaudeville had eclipsed it, while motion pictures and radio were on a meteoric rise. Had he been born a century earlier, Miller might have become one of minstrelsy's biggest stars. Instead, he performed before ever-dwindling crowds, reduced to an opening act for dancing girls and flickering images. In Tosches' memorable words, Miller "missed the boat, both coming and going."

Slightly further on down the river of American culture was Hank Williams (1923–1953), Miller's heir, the father of modern country music, and a major influence on rock 'n' roll both as a musician and as a role model. Williams is also at the heart of Barbara Ching's *Wrong's What I Do Best: Hard Country Music and Contemporary Culture*, an engaging account of country's most colorful characters and the acts of self-invention that made them that way.

Ching, an assistant professor of English at the University of Memphis, picks up the tale that Tosches began. She warns readers up front that her "training is in literary criticism and cultural theory," and that "country music offers an important perspective on the bewildering cultural situation, often called postmodernism, in which we find ourselves." But despite a tendency to flaunt her credentials and play loose with the facts, Ching tells her story well.

As she makes clear, Hank Williams not only successfully gathered many dead voices, he inspired many live ones. She is fiercely (if ultimately unconvincingly) wedded to the idea that "hard country music"—a style she calls "self-consciously low, and self-consciously hard, a deliberate display of burlesque abjection"—champions the "resentment and resilience of those whose pursuit [of the American dream] has been arduous." To her, Williams, a man who literally lived fast (pills and booze), died young (at 29), and left a pretty corpse (his funeral was attended by thousands, while tens of thousands stood outside), is a martyr for the Average Joe. "The rigors of his job failed him," Ching writes, "and its solaces failed him just as they would so many in postwar urban America."

Certainly, Hank Williams set standards—both musical and behavioral—that popular singers are still struggling to meet today. His voracious appetite for self-destruction is the stuff of legend, while his intimate lyrics and rollicking melodies continue to define hardcore country. His long list of admirers includes Jerry Lee Lewis, Elvis Presley, and just about every country singer since the early 1950s. Even Tony Bennett was a fan, transforming Williams' high-lonesome lament "Cold, Cold Heart" into a No. 1 pop hit. "A great song from a great artist," Bennett declared.

Williams' voluminous catalog of hits (including "Lovesick Blues," "Move It On Over," and "Honky Tonkin'") still fills jukeboxes from coast to coast, while tribute albums and cover songs abound among punks, rockers, and honky-tonkers. Ching rightly calls him "the hard act to follow," and does a great job describing a few artists who tried, all of whom ended up invigorating country music in new and exciting ways.

During the late 1950s, the country music industry began consolidating its publishing and recording empire in Nashville, Tennessee. Facing the commercial threat of rock 'n' roll, a fearful country music establishment

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embraced a strict new hierarchy, with label executives and studio producers wielding an enormous amount of creative control. Executives dictated when and where an artist would record and perform, while producers decided on which session musicians to use and what songs to record. The resulting "Nashville Sound" leaned heavily toward pop, with songs regularly drenched in backing vocals and string arrangements.

By the early 1970s, the stage was set for an old-fashioned rebellion. Enter the Outlaws, a fiercely independent bunch of singer-songwriters who had become increasingly dissatisfied with Nashville's authoritarian power structure.

Influenced by the counterculture and led by Waylon Jennings and Willie Nelson, the Outlaws began openly challenging Nashville's rules and carefully striking out on their own. Nelson recorded his breakthrough album *The Red Headed Stranger* in Texas, while Jennings renegotiated his RCA contract to allow greater control in the studio and on the road. Once they freed themselves from Nashville's power brokers, the Outlaws quickly achieved commercial and critical success. The 1976 compilation *Wanted! The Outlaws*, featuring Waylon Jennings, Willie Nelson, Tompall Glaser, and Jessi Coulter, became the first country album to sell over 1 million copies.

These rebels revered Hank Williams. They claimed his tough yet tender songs and uncompromising lifestyle were the marks of a real rugged individualist, and they sang about him often. Waylon Jennings pointedly asked Nashville, "Are You Sure Hank Done It This Way?," and Kris Kristofferson famously declared, "If You Don't Like Hank Williams (You Can Kiss My Ass)." Ex-con and real-life outlaw David Allan Coe would later describe a supernatural hitchhike with his hero in "The Ride."

Even when they ventured far from Williams' original sound, including when their use of rock guitars, leather jackets, and drugs expanded the country audience to include Hell's Angels and hippies, the Outlaws remained quintessentially country. Their sparsely accompanied songs and intimate, narrative lyrics struck an immediate chord with country fans, and their colorful antics (onstage and off) evoked Hank's unruly spirit. Never mind that the whole Outlaw thing was basically a marketing ploy crafted by some business-savvy singers. Willie and Waylon didn't exactly earn their fortunes by robbing banks, after all; they just wrote great songs and created exciting identities. In the end, the Outlaws' mid-'70s success proved one of the most innovative and lucrative periods in country music, while their inspiring example of individual achievement over a powerful status quo made them lasting cultural heroes.

Out west in California, Dust Bowl migrants Buck Owens and Merle Haggard mixed Hank-style hard-luck lyrics with muscular rock rhythms and some honky-tonk twang to create the Bakersfield sound. With their "revved-up percussion" and driving electric riffs on top of fiddles and steel guitars, "they sounded nothing like those coming out of Nashville...in its mellow mid-'60s string-section, backup singer phase," Ching writes. Rising out of Bakersfield's tough, beer-soaked honky-tonks, Haggard scored a string of No. 1 hits, including "Mama Tried" and "Okie From Muskogee," while Owens achieved pop culture immortality on the syndicated TV hit *Hee Haw*.

In the 1980s, self-styled Bakersfield heir Dwight Yoakam left Columbus, Ohio, for Los Angeles, where he helped kick off the highly successful "new traditionalist" movement that laid the foundation for the commercial juggernaut of Garth Brooks. Country fans didn't much care where Yoakam, with his stylish good looks and raw, guitar-driven sound, went to

Bitch Goddess

Ann Coulter's perverse appeal

Jesse Walker writes:

On September 13, 2001, columnist Ann Coulter offered up the single most infamous foreign policy suggestion inspired by 9/11. Writing about Muslims, she declared, "We should invade their countries, kill their leaders and convert them to Christianity." Until then, Coulter was best known as a TV pundit whose stock in trade was tossing her platinum haystack while firing off the sort of conservative bon mots more typically associated with Rush Limbaugh than with leggy blondes.

Since Coulter advocated conversion by the sword, her stock has really blown through the roof. *Slander: Liberal Lies About the American Right* (Crown), her recent, hilariously shrill treatise on "liberal hate," has topped the *New York Times* bestseller list.

Because *Slander* breaks no new ground in uncovering what it claims is ubiquitous anti-conservative media bias, its smashing success raises a interesting question: Who the hell bought this book? Coulter, after all, is plainly one of the »

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high school. As with those Northerners who wrote nostalgic songs about a South they never knew, Yoakam's "authenticity" lies in his audience's response. Since he could walk the walk, talk the talk, and sing lots of Buck Owens songs, his credibility was never in question.

Nobody found Williams a harder act to follow, however, than his son Randall, better known to the world as Hank Williams Jr. This unfortunate son, Ching notes, got his professional start as a prepubescent Hank impersonator, dressed in miniature cowboy hat, boots, and "Nudie suit" (the famous rhinestone-studded variety, named after the Los Angeles tailor Nudie Cohen). At age 11 Hank Jr. made his debut at the Grand Ole Opry with (what else?) "Lovesick Blues." As he matured, however, he became increasingly anxious to find his own voice, to create his own brand of country. "His career as an imitator was morbidly centered on sustaining sorrow and loss," Ching writes, "a nostalgia act that by definition had no future except as a well-publicized death wish."

By the mid-1970s Hank Jr. had defined himself as the rowdy country-rocker Bocephus (a nickname originally given by his father). Like the Outlaws, he abandoned Nashville, in this case for the woods of Alabama, where "his music is homegrown—as are his other pleasures, wine and marijuana."

His artistic horizons expanded as well. The 1975 album *Hank Williams Jr. and Friends* featured members of the Allman Brothers and Marshall Tucker bands, two of the biggest names in Southern rock. "I'm gonna quit singin' all these sad songs, cause I can't stand the pain," Bocephus declared on the album's last track, "Living Proof." His specialties became wild anthems ("Whisky Bent and Hell Bound") and Southern pride ("A Country Boy Can Survive").

In 1989 he became a cultural icon as the rowdy voice of *Monday Night Football*. These days, Hank Jr. sings his father's sad songs, declares himself the master of "X-Treme Country," and records and performs with his (spiritual, not biological) "rebel son" Kid Rock, the hillbilly hip-hopper whom *Spin* recently dubbed "the first man ever to cross over from rap to country."

By both banking on his famous name and drastically altering his father's formula, Hank Williams Jr. has expanded both the definition and fan base of country music. Party-loving Southern rockers and old-fashioned fiddlers now have an equal stake in the enterprise. "As a Williams," Ching argues, "Bocephus can make definitive statements about the meaning of country music itself, [and] he can make it mean nearly anything he wants."

Judging by the recent success of both traditional bluegrass (the soundtrack to *O Brother Where Art Thou?*) and country-pop (Garth Brooks, Faith Hill), Bocephus isn't the only one who can make country mean whatever he wants it to. From Emmett Miller and the dying embers of minstrelsy to the commercial explosion of Hank Williams and his vast influence on both country and the birth of rock 'n' roll, these books help explain how cultural forms migrate, mix, and recombine, often in invisible and unpredictable ways.

Ironically, today's country music is largely seen as a refuge for whites from so-called black music, in spite of country's roots in minstrelsy and deep ties with the blues. Nashville's reputation as a bastion of family values is equally strange, given Johnny Cash's murder songs ("I shot a man in Reno, just to watch him die") and the alcohol-fueled antics of George "No Show" Jones.

Ultimately, however, these interpretations will themselves give way to others, further expanding the wealth of identities and affiliations available on the American scene. From Christian fundamentalists to longhaired freaks, cowpunks to good ol' boys, every new face makes country bigger than it was before. And there is always room for more unexpected arrivals.

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Dangerous Thinkers

20th-century philosophers' love affair with totalitarianism

Mark Goldblatt

The Reckless Mind: Intellectuals in Politics, by Mark Lilla, New York: New York Review of Books, 216 pages, $24.95

IF PHILOSOPHERS WERE ranked like baseball players, you'd wind up with three generally agreed-upon Hall of Famers: Socrates, Plato, and Aristotle. The major leagues would consist of the great synthesizers and systematizers, figures like Augustine and Aquinas, Avicenna and Maimonides, Kant and Hegel. Dispersed throughout the minor leagues—you can decide the level case by case—you'd find a ragtag collection of pre-Socratics, skeptics, and Stoics, churchmen, rabbis, and Muslims, along with a handful of later Europeans such as Hobbes, Descartes, Spinoza, Locke, Leibniz, Hume, Rousseau, Mill, Kierkegaard, Marx, and Nietzsche.

Saying that, the first thing to note about Mark Lilla's incisive new book, *The Reckless Mind,* is that only one of the minds he profiles, Martin Heidegger, rises even to the level of a single-A farm team. Most of the rest—including Karl Jaspers, Hannah Arendt, Carl Schmitt, Walter Benjamin, Alexandre Kojeve, and Michel Foucault—are wobbly Little Leaguers. And one, Jacques Derrida, has made a career out of playing whiffle ball in his own backyard, with half the humanities professors in the United States watching and doing color commentary.

Lilla's book reminds us that some of the most renowned European thinkers of the 20th century were high-octane sons of bitches. Drawing his inspiration from Czeslaw Milosz's 1953 classic, *The Captive Mind,* in which the future Nobel Prize winner examined how leading intellectuals in postwar Poland became apologists for Stalinism, Lilla gives us a rogues' gallery that spans 75 years of European thought.

He grants that "history dealt a bad hand" to Milosz's bunch. To speak out against the horrors of communism would have been to risk their lives. "But how are we to explain the fact," Lilla asks, "that a chorus for tyranny also existed in countries where intellectuals faced no danger and were free to write as they pleased?" Rather than stare down the reality that the extremes of Nazism and communism were flip sides of a single debased coin, the thinkers in Lilla's book

most intentionally infuriating commentators at work today. Who else would end a treatise on slanderous liberals with the sweeping declaration that *they* are "savagely cruel bigots who hate ordinary Americans and lie for sport"? Whether you're a lefty, a centrist, or a libertarian, there's plenty in the book to scorn.

Indeed, Coulter is such an inveterate nest fouler that she has even managed to alienate parts of her right-wing constituency. During the fracas over her Muslims column and a related one advocating the profiling of "suspicious-looking swarthy males," *National Review Online* dropped her column, citing journalistic concerns. Coulter responded by slagging the *Review*'s editorial staff as "just girly-boys."

Conservatives—even, one suspects, the red-faced crew at *National Review*—have a ready explanation for *Slander*'s best-selling status. The book's success, like that of Bernard Goldberg's *Bias*, Fox News Channel, Rush Limbaugh, and any number of rightward-ho newspaper columnists, is evidence of America's "silent majority." Legions of conservatives, goes this story, are tired of being ignored by the yogurt-lunching liberal commissars who control the media from Manhattan and Hollywood. *Slander* is a hit, then, because it tells the truths that Dan Rather, Peter Jennings, and other smug liberal media mavens refuse to discuss.

Well, maybe. But it's as »

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were drawn to one or the other by virtue of its very extremity.

Indeed, they came to regard *moderation* as the overriding threat to humanity and thus turned against the great moderating force of the last 200 years, Western liberal democracy. With the stench of death camps and gulags hovering over Europe, they honed in on such abstruse, rarefied bogeymen as "capital," "bourgeois conformity," "metaphysics," "power," and "language." If political philosophy begins, as Lilla says, "with Plato's critique of tyranny in the *Republic*," how in the last century did it degenerate to the point that "it became respectable to argue that tyranny was good, even beautiful"?

The answer Lilla proposes is both ingenious and cautionary, and serves as the unifying principle for his book. Each thinker Lilla discusses attempted to reason his way out of rationality, to wriggle free from the straitjacket of common sense, to think beyond the strictures of logical thought in the belief that something truer than truth could be had. The elusive *thing* that is the proper object of philosophy is never quite definable, but the passionate (or reckless) pursuit of it is the driving force in the philosophical lives Lilla sketches. These are clever people. But the deification and pursuit of the irrational made fools of each of them.

The juiciest tale Lilla tells is that of Heidegger, Jaspers, and Arendt—a bizarre triangle of misplaced loyalty, romantic delusion, and philosophical penis envy whose closest political cognate would be Bill Clinton, Al Gore, and Monica Lewinsky. The fact that Jaspers and Arendt were, respectively, cowed and seduced by Heidegger's imposing but only intermittently coherent disquisitions on "being" and "authenticity" says as much about their powers of perception as it does about Heidegger's true stature. "Everyone is other," Heidegger once declared, "and no one is himself."

Jaspers, who began their relationship as Heidegger's mentor, took such pronouncements as the gold standard of European thought. He wrote to Heidegger in 1931 that "in the long run, the philosophy of the German universities is in your hands." (More about hands in a moment.) Arendt, who began as Heidegger's student,

> The denial of reason as the final arbiter of ideas leads, in the most benign cases, to texts so masturbatory that their pages virtually stick together.

was also daunted by their early encounters, recalling, decades after she first turned up in his classroom, her professor's "passion of thinking," which "takes possession of him and, as it were, annihilates his 'character' which cannot hold its own against this onslaught." She apparently couldn't hold her own against it either. Despite the inconvenient fact that Heidegger was married, the two of them quickly became lovers.

The shock for both Jaspers and Arendt came when Heidegger's "passion" turned from speculative pursuits to Nazism. Lilla effectively draws out the connections between Heidegger's philosophy and his political drift. Authenticity, again, is Heidegger's prime value. People become absorbed in their everyday existences, distracted by trivial concerns that threaten the status quo, and thus fail to confront the principal truth of life, which is the certainty of death. Losing sight of this certainty, we lose ourselves.

Authenticity, in the Heideggerian view, is achieved on an individual level by a resolve to be who we are without apologies or mediation; on a social level, authenticity is achieved by a collective resoluteness of purpose and agency that expresses itself in something like a national character. Heidegger thought he'd found that resoluteness in the Nazis. By 1933, he'd joined the party and was ending his university lectures with "Heil Hitler!" When Jaspers, whose wife was Jewish, belatedly confronts Heidegger on the matter, their exchange is tragicomic: "Jaspers: 'How can such an uncultivated man like Adolf Hitler govern Germany?' Heidegger: 'Culture doesn't matter. Just look at his marvelous hands.'"

After the war, Heidegger, quite naturally, sought to rewrite his Nazi past. He portrayed himself, in a 1950 letter to Jaspers, as an innocent who succumbed to the lure of the party due to his unwavering love for Germany. But Heidegger also held out hope that an unforeseen "advent" might yet be on the horizon to resurrect the defeated German spirit.

The intimations of a Fourth Reich were clear enough to Jaspers. The letter effectively dissolved their friendship. Not so for Arendt. Though in 1946 she dismissed Heidegger's philosophy as "superstition," the two were reconciled personally in 1950 and remained lifelong friends. In 1969 she even wrote a lengthy tribute essay, "Martin Heidegger at Eighty," in which she downplayed his Nazi affiliation, mentioning it only in a footnote at the end. According

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to Lilla, Arendt had come to pity Heidegger for having "seized upon untruth with the passion for truth."

Slippery comfort to the victims of Hitler's holocaust.

Heidegger's Nazism, however repulsive, seems a mere flirtation compared to the deep embrace of Hitler by his German contemporary Carl Schmitt. Already a prominent university professor and political and legal theorist when he joined the Nazi Party in 1933, Schmitt was personally mentored by Hermann Goring and eventually became, in Lilla's words, "a committed, official advocate of the Nazi regime." He spoke at a 1936 conference titled "German Jurisprudence in the Struggle Against the Jewish Spirit," calling for a purge of Jewish texts from libraries and encouraging his colleagues not to cite Jewish authors in their own writings. He closed his speech by quoting Hitler himself: "By warding off the Jews, I struggle for the work of the Lord."

After the war, when Schmitt was interrogated by both the Americans and the Russians, he defended himself with characteristic academic smugness: "I drank the Nazi bacillus but was not infected." He was in the end released, but he was never allowed to teach again.

Still, his political theorizing exercised a considerable influence on later European thinkers—especially those contemptuous of modern liberalism. *Enmity* was Schmitt's key concept. By enmity, he means a relation in which certain persons or groups are recognized as "existentially something different and alien."

"Tell me who your enemy is," Schmitt writes, "and I'll tell you who you are." This is true, according to Schmitt, in every field of engagement; in morals, religion, economics, and art, you eventually encounter an enemy and, through the encounter, find your own true nature. The principal duty of the sovereign is not to keep the peace but to identify the state's enemies and to make war against them, thus solidifying the collective character of the people.

This is the very antithesis of modern liberalism, in which the state functions as a neutral institution whose role is to uphold the rule of law, promote compromise, and resolve differences peacefully. Of course, the fact that Schmitt's conclusions are at odds with liberalism is not necessarily a strike against him. If he's right, he's right.

But as Lilla points out, "Schmitt does not arrive at this view inductively after surveying the bloody record of political history." He is, rather, "making an anthropological assumption about human nature that is meant to reveal the true lessons of history." And he is framing his case in fervent, teleological, even apocalyptic terms: For Schmitt, recovery of the true German character is not only desirable, it is inevitable. It is the national destiny.

It's not difficult to understand why the Nazis would pick up on Schmitt's theories. Hitler's targeting of Jews as the German enemy, and of Jewish Marxists as the enemy par excellence, becomes a necessary step in recovering and then tapping into the inner resources of the national identity. What's harder to understand is the lure of Schmitt for more recent thinkers on the political left.

According to Lilla, it seems a case of my enemy's enemy must be my friend. Schmitt regarded liberalism as deformed because it attempted to reconcile differences rather than cultivate natural enmities. Michel Foucault picked up bits and pieces of this—the notion that liberalism thwarts natural desires, the institutionalized necessity of defining yourself against your enemies—and formulated his own critique of liberalism. Much of the academic left followed.

Liberalism is now viewed, from the Fou-

likely that Coulter's success depends not on her admirers but on those who can't stand the lady. She's the best kind of straw man—a straw woman—and both professional and amateur commentators can take great joy in tearing her apart. Her unnuanced, below-the-belt style of discourse brands her with a special kind of scarlet "A," one that makes any rhetorical counterattack, no matter how disrespectful, fair game.

Coulter's critics clearly enjoy the freedom, even as it brings out their very worst. Take the brazenly patriarchal, positively Victorian finale of Charles Taylor's review of *Slander* in *Salon*: "Coulter and her brood [of conservative women pundits] should be treated like spoiled brats who mouth off. Put them over the knee, paddle their fannies, tell them to wipe that smirk off their face and to speak up only when they've learned something about the world." Then there's *The Boston Globe*'s Alex Beam, who coined the nasty term that's now practically interchangeable with Coulter's Christian name: *right-wing telebimbo*.

Even perky Katie Couric—dubbed "the affable Eva Braun of morning TV" in *Slander*—got hot under the collar when interrogating the Coultinator on the *Today* show. As the conversation degenerated into an early morning sniping match, a determined Couric had to repeat twice what was far from obvious: "*I'm* the one conducting this interview!" »

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cauldian perspective, as a mere shell game, a nothing-up-my-sleeves performance in which the pretense of neutrality functions as a necessary distraction while the privileged few ruthlessly consolidate their oppressive power over the masses. This is a bastardization of Schmitt; he wouldn't have taken oppressive tendencies of any sort as an indictment. But Schmitt himself, according to Lilla, is "virtually unknown in America." So who cares—at least on this side of the Atlantic—if Foucault got him wrong?

This is not the case in Europe, where, Lilla writes, even today Schmitt remains "one of the most significant political theorists of the twentieth century." That Schmitt influenced Walter Benjamin, the German-Jewish literary critic and crypto-mystic, would be downright farcical if not for the fact that Benjamin wound up committing suicide in 1940 while fleeing the Nazis.

It is likely that he was initially drawn to Schmitt's style as much as to his substance, to the messianic urgency of his tone as much as to the dubious logic of his arguments. The hyperrational modern world, according to Benjamin, had lost touch with its underlying spiritual nature, which could only be glimpsed through spontaneous outbursts of art and language. The natural world will eventually pass away; bringing about that apocalyptic event is "the task of world politics, whose method must be called nihilism."

Benjamin's apocalyptic obsession soon evolved from theological speculation to Marxist politics—a shift from spiritualism to materialism inexplicable except in light of his love affair with a woman named Asja Lacis, a radical communist associated with Bertolt Brecht's political theater. Benjamin wrote, poignantly, that he felt himself torn between "cultic and Communist activity." As he struggled to embrace both, the man who once dedicated a book to Carl Schmitt now epitomized Schmitt's notion of the necessary enemy of Germany: a Jewish Marxist. That Benjamin lived long enough to witness the Hitler-Stalin pact of 1939 only compounds tragedy with irony. Few suicides have been as logically defensible as Benjamin's.

Michel Foucault's debt to Schmitt, unlike Benjamin's, is evident at first glance. Schmitt had argued that a society must define itself against its enemies to prosper. Foucault concerns himself, according to Lilla's neat summary, with the question of "how the distinctions that exist in modern society—between law and crime, sanity and insanity, order and disorder, natural and perverse—came to develop." Inherent in Foucault's project is the belief that such distinctions are made to consolidate power, to define the dominant group in a hierarchical relation with the marginalized group.

Also inherent is the belief that such distinctions are ultimately arbitrary. All prisoners, if you follow Foucault's reasoning, are political prisoners; indeed, they are even heroes for their transgressions. Though Foucault was homosexual, and certainly tormented by that fact in his early life, Lilla is right to point out that "it was the idea of social boundaries and their transgression, not homoeroticism as such, that dominated his mature outlook." He pursued "limit-experiences" in drug use, communal living, and sexual experimentation, and he was drawn, erotically, to extreme violence.

In a 1971 debate with Noam Chomsky, Foucault's agenda became clear: "When the proletariat takes power, it may...exert toward the classes over which it has triumphed a violent, dictatorial, and even bloody power. I can't see what objection could possibly be made to this."

Revolution itself held little interest for Foucault aside from its concurrent "limit-experience"—that is,

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bloodletting. He publicly applauded the Iranian revolution, visiting the country twice under the Ayatollah. In the late 1970s, he immersed himself in the sado-masochistic gay subculture of California and contracted AIDS—and continued to engage in unprotected sex. Toward the end of his life, he remarked, "To die for the love of boys: What could be more beautiful?" He succumbed to the disease in 1984.

With more than a touch of irony, Lilla notes, "For the generation that came of age in the 1960s and 1970s [Foucault] served as an exemplar of what it is to lead an intellectually and politically serious life." In retrospect, however, perhaps the kindest thing you can say about Foucault is that if he'd truly had the courage of his convictions, he could have been the Marquis de Sade.

The last "reckless mind" Lilla portrays is Jacques Derrida, who describes himself as "a man of the left" but whose theoretical stance effectively negates the possibility of political allegiance. The fact that Derrida is even classified as a philosopher—rather than, as Lilla suggests, a performance artist—tells you more about the state of the humanities in the West, and especially in America, over the last quarter century than it does about Derrida's own work.

Following the then-fashionable habit among late 1960s French intellectuals to regard "universal ideas" such as "reason, science, progress and liberal democracy" as "culturally specific weapons fashioned to rob the non-European Other of his difference," Derrida early on posited that "man" himself was a cultural construct; there was no essential human nature, no ideal against which to judge human behavior or compare cultures. "Man" was a product of language, and language in every case could be taken apart to expose its internal contradictions. Philosophical texts could likewise be "deconstructed"; indeed, the process of deconstruction could be substituted for philosophy.

This early Derrida, observes Lilla, is wholly irreconcilable with the Derrida of recent years, who has turned to lengthy disquisitions on the necessity for, and universality of, justice. Such irreconcilability would be fine if Derrida had renounced the premises of his earlier work. He hasn't. But of course Derrida's response would be that pointing out his own contradictions amounts to a *logical* critique, and the thrust of his thought has always been to subvert logic itself. Thus, his inconsistency is perfectly consistent.

It's an invincible position. And it is the antithesis of a rational enterprise. If contradicting yourself does not undermine what you're arguing, you're not arguing anything. The only way to read Derrida on his own terms is mentally to insert the words "or not" after each of his statements. Derrida, indeed, represents the logical endpoint of the desire to work free of logic. Though by no means the most reckless of the reckless minds Lilla profiles, he is without question the most pointless—as evidenced by the fact that he has spawned a cottage industry of jargon-spewing academics struggling to explain why he isn't really as pointless as he seems.

Lilla's brief but sobering book should remind us that the denial of reason as the final arbiter of ideas leads, in the most benign cases, to texts so masturbatory that their pages virtually stick together. In the most malignant cases, it leads to the rhetoric of genocide.

Mark Goldblatt (Mgold57@aol.com) is the author of the recent novel Africa Speaks (Permanent Press). He teaches the history of ideas at the State University of New York's Fashion Institute of Technology.

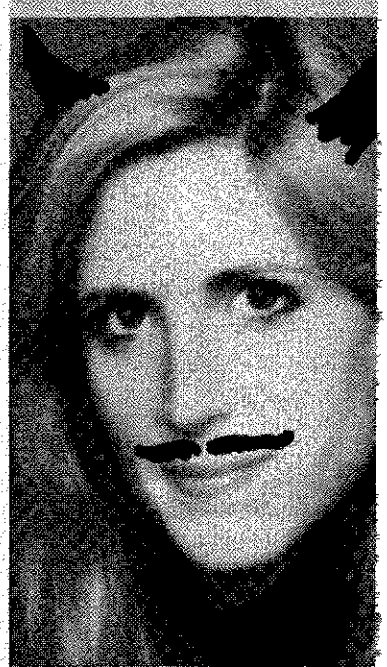
>> Bitch Goddess

Like it or not, in the kingdom of snark, Ann Coulter is queen. She's never going to be hurting for loyal fans, particularly among those who have the pleasure of hating her. Not surprisingly, Coulter says she thrives on all the negative attention. Indeed, her eyes fairly dance when she's challenged—though somewhat maniacally, as if she were reaching for her machete.

"As Mao said, 'It's a good thing to be attacked by your enemy,'" she told a reporter at the *St. Petersburg Times*. Especially when every barb proves your thesis about liberal hate.

Bring it on, is the subtext of every Coulter utterance and smirk, *you're only helping me out*. Certainly it can't be a coincidence that *Slander*'s book jacket, featuring Coulter's large, floating head, seems like it was designed to double as a dartboard.

Sara Rimensnyder (sarar@reason.com) is reason*'s assistant editor.*



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Smash! Pow! Bam!

Why superheroes go bankrupt

Jeremy Lott

MEGA-INVESTOR RON Perelman has all the traits of a comic book supervillain. He's massively wealthy and powerful. More to the point, he exudes enough vanity and overreach to make Lex Luthor and Dr. Doom seem like a couple of Girl Scouts. So it's not surprising to see Perelman slugging it out with rival billionaire corporate raider Carl Icahn on the cover of *Comic Wars: How Two Tycoons Battled Over the Marvel Comics Empire...And Both Lost!!!* (Broadway Books). As described by journalist Dan Raviv, the board room brouhaha between Perelman and Icahn isn't just the most entertaining battle royale since Superman and Muhammad Ali punched each other's lights out in a late-'70s comic. It's a cautionary tale about mismanaging intellectual property.

In 1989 Perelman, best known as head honcho at the cosmetics company Revlon, surprised the investment world by outbidding a number of rivals to buy Marvel. Perelman spoke of the comics publisher as a "mini Disney in terms of intellectual property" and promised to take the company to that vaunted stage of corporate nirvana, the next level. Perelman boasted that there would be more merchandising, more glitz, and—at long last!—good movies based on Marvel's rich stable of characters: Spider-Man, the Incredible Hulk, the Uncanny X-Men, and Daredevil.

For a few years, Perelman was invincible. The early '90s saw a collectibles boom that lifted comic book sales. Foil-embossed covers, multiple covers for the same issue, and issues shrink-wrapped with giveaways encouraged folks to buy several copies and wait for the price to rise. The boost in comics' value helped bring about new respect for the oft-maligned genre. "The Wizard"—Raviv's sobriquet for Perelman—branched out, purchasing baseball card and sticker companies.

Then the 1994 baseball strike nearly erased the value of Marvel's card and sticker divisions. Even worse, the speculative bubble in comic books burst, shocking the whole industry and pushing Marvel into bankruptcy. It also revealed how little Perelman really understood the comic book industry.

For much of the century, comics had traditionally been sold in drugstores and newsstands. But by the '90s the overwhelming majority of sales were though small-time comic specialty shops, which were serviced by over a dozen distributors. This system was inefficient from the publishers' perspective, but it provided options for storeowners living on slim profit margins. The competition benefited them, and they could often switch from distributor A to B when their tabs got too big.

One way Marvel tried to cut its losses in the '90s was by directly distributing its own comics. That move not only ran several distributors out of business, it also shuttered many comic book shops and did real damage to overall sales. The company's hamfistedness earned it the enmity of many fans, who undertook a boycott of all things Marvel.

It wasn't just business tactics that bothered fans. Marvel's often hostile approach to its creative talent undercut quality and led to the exodus of its most popular artists, who formed Image Comics in 1992. And despite his bluster, Perelman never seriously tried to deliver movies based on Marvel characters—he didn't trust "Hollywood accounting."

In Raviv's telling, Perelman is a remarkably unperceptive man who never understood exactly what he was buying or what to do with it. Yet Perelman's comparison of Marvel to Disney has turned out to be more apt than he knew. Though a nearly unparalleled entertainment powerhouse today, Disney went through years so lean in the '70s and '80s that its imminent demise was taken for granted. It was only with the massive success of *The Little Mermaid* (1989) that Disney rejuvenated its film division and fully reversed its long-slumping fortunes.

The lesson from Disney's experience? It is no easy matter to develop and retain talent, to properly package creative content, and to effectively deliver it to audiences—all while turning a buck.

That's a lesson that the new owners of Marvel, Ike Perlemutter and Avi Arad, seem to have learned. While its comic book sales continue to putter along, Marvel has scored critical and commercial successes with films such as 2000's *X-Men* and this year's *Spider-Man*. 2003 promises more of the same, with A-list director Ang Lee putting out *The Hulk*, Hollywood heartthrob Ben Affleck donning red tights to play *Daredevil*, and an X-Men sequel hitting theaters.

And in a hidden lair somewhere, no doubt, Ron "The Wizard" Perelman plots his revenge. ◻

Jeremy Lott (lott@reason.com) is reason's *2002 Burton C. Gray Memorial Intern.*

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Performance Anxiety

The tragedy of Asian success

Jeremy Lott

Yellow: Race in America Beyond Black and White, by Frank H. Wu, New York: Basic Books, 399 pages, $26

In 1999, congressional Republicans and the Clinton administration revived the old diplomatic game known as "Who Lost China?" This round—"Who Lost Nuclear Weapon Secrets to China?"—was particularly nasty. Republicans whispered (when not saying openly) that the administration was guilty of treason for its lax treatment of official government secrets. They were not charging Clinton merely with gross incompetence. They alleged and insinuated that illegal campaign donations by Chinese nationals amounted to a quid pro quo, with the president taking money indirectly from the Chinese government and then looking the other way as secrets were passed along.

In response, Clinton and company played the race card, suggesting that Republicans were bigots for pointing out that the Democrats had been unusually chummy with various Asian-American communities and Asian business interests in the 1996 election cycle. But even as they insisted that they had done nothing wrong and that the Republicans were ogres for bringing it up, the Democrats launched a massive effort to staunch the scandal's flow. The Democratic National Committee called every donor it believed to be of Asian descent and demanded, in terms many found insulting, such details as their Social Security numbers, their places of employment, and copies of their credit reports. More than $3 million in donations were returned.

In the third chapter of *Yellow: Race in America Beyond Black and White*, Frank Wu explains that this episode marked "a turning point in [the] political empowerment" of Asian Americans. "We were transformed from invisible to infamous," he writes. He isn't kidding. The head of a later chapter quotes some stunning remarks from Sen. Richard Shelby (R-Ala.), then chairman of the Senate Select Committee on Intelligence. On a Sunday morning talk show, Shelby stopped just short of invoking Fu Manchu and Ming the Merciless: "We've got to remember the Chinese are everywhere, as far as our weapon systems, not only in our labs that make our nuclear weapons and development but also in the technology to deliver them. They're real. They're here. And probably in some ways, very crafty people."

Yellow is meant to be a call for a more accurate understanding of Asians and their future roles in American society; it seeks to "elevate" the racial discussion beyond its "formerly static terms." Those are promising goals, and Wu, a Chinese-American law professor at Howard University, sheds new light on many aspects of the Asian experience in the United States. But his actual policy proposals to address lingering aspects of discrimination are neither particularly new nor useful in reconfiguring discussions of race.

One of those "very crafty people" who so worried Sen. Shelby was Wen Ho Lee. A veteran specialist in the arcane field of hydrodynamics from the nuclear laboratories in Los Alamos, New Mexico, Lee was targeted by the various intelligence agencies of the U.S. government as a possible mole. After conducting over 1,000 interviews (including over 20 with Lee and in-depth discussions with all his friends and relatives), doing extensive and comprehensive surveillance, and looking through Lee's trash in the county dump, the government had basically wrapped up its investigation. The consensus was voiced by Los Alamos counterintelligence officer Robert Vrooman: "Everyone was convinced he was not a spy....We figured we'd put this puppy to bed."

Vrooman figured wrong, because he had failed to take the political climate of the day into account. In the wake of the House Select Committee on U.S. National Security's "Cox Report," which alleged gross breaches of national security, the Clinton administration needed to prove that it, too, was tough on Chinese Communists. So Lee found himself in a nasty predicament. He faced a 59-count indictment, with the real possibility of life imprisonment. When bail was denied, Lee was kept in solitary confinement for 23 hours a day; he was shackled and granted negligible time for family visitation. Most media outlets, following leaks that were initially given credence by *The New York Times*, all but assumed Lee's guilt.

In open court, though, the government's case imploded. Lee was charged not with treason but with violating what Wu calls "obscure federal statutes on nuclear data confidentiality." It became apparent that the information Lee had divulged was publicly available. Further, most of the actual violations (e.g., copying data to disks and then destroying them in a fit of worry that he was breaking the law) were of rules in the "the law is an ass" category that most

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researchers routinely ignore. Lee ultimately pled guilty to one charge and settled for time served. The trial judge, James A. Parker, closed the case by apologizing to Lee and chastising his own government, calling the prosecution "an embarrassment to the nation."

The Wen Ho Lee case was certainly a miscarriage of justice. It suspended the rights of a man who is, by most accounts, a loyal American and a decent human being. It also left him with about $1 million in legal expenses and a tarnished name that will never recover its full luster. Nor was the government terribly apologetic about its behavior. One FBI agent had the audacity to suggest that, even though the government couldn't prove its case, Lee shouldn't be released because the nuclear scientist might "take revenge on the United States for removing his liberty."

But as Wu points out, the Lee case also took on broader significance because of Lee's ethnic identity, which was, after all, one of the government's reasons for going after him. The trial took two popular but somewhat contradictory views about Asian Americans—the high-achieving "model minority" and the wily, untrustworthy foreigner—and ran them down opposite ends of the same narrow tunnel. It became clear, from fellow scientists and agents associated with the case, that the unprecedented scrutiny placed on Lee was due in large part to his race: As a naturalized U.S. citizen from Taiwan, he had fit the profile the government was looking for.

The manifest injustice of Lee's treatment led to protests by many groups of Asian Americans and scientists. Wu explains that, next to Chinese immigrants, it was Japanese Americans, with memories of World War II–era internment camps still reverberating, who were the most sympathetic and vocal. The case also produced unanticipated costs for the government. Since many American university departments of science and engineering are dominated by Asians of various extractions (some white students have disparagingly nicknamed MIT "Made In Taiwan"), the U.S. government is somewhat dependent on the goodwill of Asians to keeps its laboratories running.

The Lee case, and some of the ridiculous ideas that were floated as a result of it (the Energy Department proposed a badge system that would have required employees to identify their country of origin), may have "imperiled" many U.S. defense programs, Wu writes, as many Asian and Asian-American scientists "left government jobs or declined to take them in the wake of Lee's travails."

In Wu's opinion, and that of much of the Asian community, the trial of Wen Ho Lee was the yellow—that is, Asian—equivalent of being arrested for "driving while black." "Privately," Wu explains, "Asian Americans were indignant that Lee was a Ph.D. scientist being treated worse than drug dealers."

One of *Yellow*'s better lines, which nicely sums up Wu's view of the history of various Asian groups in America, is that "Asian Americans cannot win by winning." In the 19th century, Chinese workers were encouraged to come to the U.S. territories by American employers, who used them to drive down the price of labor on the railroads. The rail bosses played the Chinese off against the Irish and blacks, and then refused them entry at the ceremony that joined the transcontinental lines. Those who settled in the West were subjected to gross discrimination and the occasional pogrom.

In the Japanese internment during World War II, Japanese Americans were removed from their homes and placed in prison camps, even as German Americans and Italian Americans faced no such restrictions. To avoid the anti-yellow backlash, other Asians scrambled to distance themselves from the Japanese; Korean Americans, in a perverse kind of sol-

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idarity (borne, to be sure, partly of Korea's brutal colonial subjugation by Japan), took to wearing pins that said, "I hate the Japs more than you do."

The history of Asian immigrants to the U.S. should make their recent successes all the more surprising and encouraging. Elite science and engineering departments are packed with Asians—naturalized citizens, native Asian Americans, and students on overseas visas. Asians start small businesses in disproportionate numbers. Many of Silicon Valley's greatest successes (Yahoo! co-founder Jerry Yang, for example) are Asian. Even more striking is the fact that in 1997, as Wu reports, "Asian Americans made $18,569 per person; white Americans, $20,093," a difference of only $1,524.

That's not bad for an ethnic group that was widely feared and hated until a few decades ago. How did it happen? Federal, state, and local governments played a role by removing legal barriers to owning property and gaining citizenship, along with the other forms of institutionalized discrimination they once faced. But most of the Asians' success is attributable to their cultural practices, including their insistence on the importance of education, their close-knit family structures, and their sheer persistence in the face of overwhelming odds.

I have just flirted with what Wu and others have dubbed the "model minority myth" by, arguably, idealizing Asians. But the picture that Wu decries as caricature in *Yellow* is consistent with the experiences of many people—for example, most of my Cambodian, Korean, and East Indian friends. Their families really did buck the odds to come to the U.S. and Canada and continue to do so, relying on luck, brains, hard work, religious commitments, a mania for education, and close family connections to see them through.

Yet Wu doesn't just decry the model minority myth as misleading. He presents even the inarguable signs of Asian success in a negative light. Thus, he notes that the incomes of whites and Asians are not yet equal and that the latter seem to get less bang for their doctorate buck (but more for their master's degrees). The fact that many Asians open small family-run businesses can put a damper on wages, he says, as small businesses nearly always have to struggle against red tape and bigger competitors.

Yellow should be, on balance, a success story. Instead, most of it reads like a funeral dirge for a healthy patient.

Even as he stresses that Asians do not yet have absolute parity with whites, Wu emphasizes that Asians' successes can generate violent envy while at the same time distracting authorities from the fact that they are still, to some, a hated minority. Wu documents several cases in which American whites attacked Asian Americans, often killing them, yet the authorities resolutely insisted that the crimes had nothing to do with race. During the 1992 Los Angeles riots, many Korean stores were looted, and several owners perished defending their businesses against mostly black and Hispanic mobs.

As Wu's discussion of the Wen Ho Lee case underscores, old stereotypes can quickly reassert themselves to disastrous effect. Wu argues that the shift from overachieving striver to inscrutable slant-eyed foreigner—from one stereotypical extreme to the other—is still far too easily made. For Wu, those two identities leave Asians in a bind, in relation both to whites and to other minorities.

As a result, Wu frets over future relations between, say, Asians and African Americans; over the movement to dynamite the old monolithic racial categories in favor of a new "multiracial" regime; and over Asian opposition to affirmative action in college admissions, where their high math scores give them an edge. His solutions are of a piece with his left-leaning politics of solidarity. He argues for racial quotas across the board, noting that while these might hurt Asians in education, preferences can help them shatter glass ceilings in businesses where they are still underrepresented. He also passionately makes the case against any type of racial profiling—even by private actors such as taxi cab drivers—as a mechanism that generates criminality by unfairly stigmatizing a given group.

In terms of pushing discussions of race beyond "static" terms, then, the book is a disappointment. Given the data Wu presents, *Yellow* should be, on balance, a success story. Instead, most of it reads like a funeral dirge for a healthy patient. Most readers will readily agree with Wu that the undue scrutiny visited upon Asian scientists was an outrage. But the fact that they were able to make their displeasure felt in a way that deterred further crackdowns is a testament not to their foreignness but to their newfound political clout. ▪

Jeremy Lott is **reason***'s 2002 Burton C. Gray Memorial Intern.*

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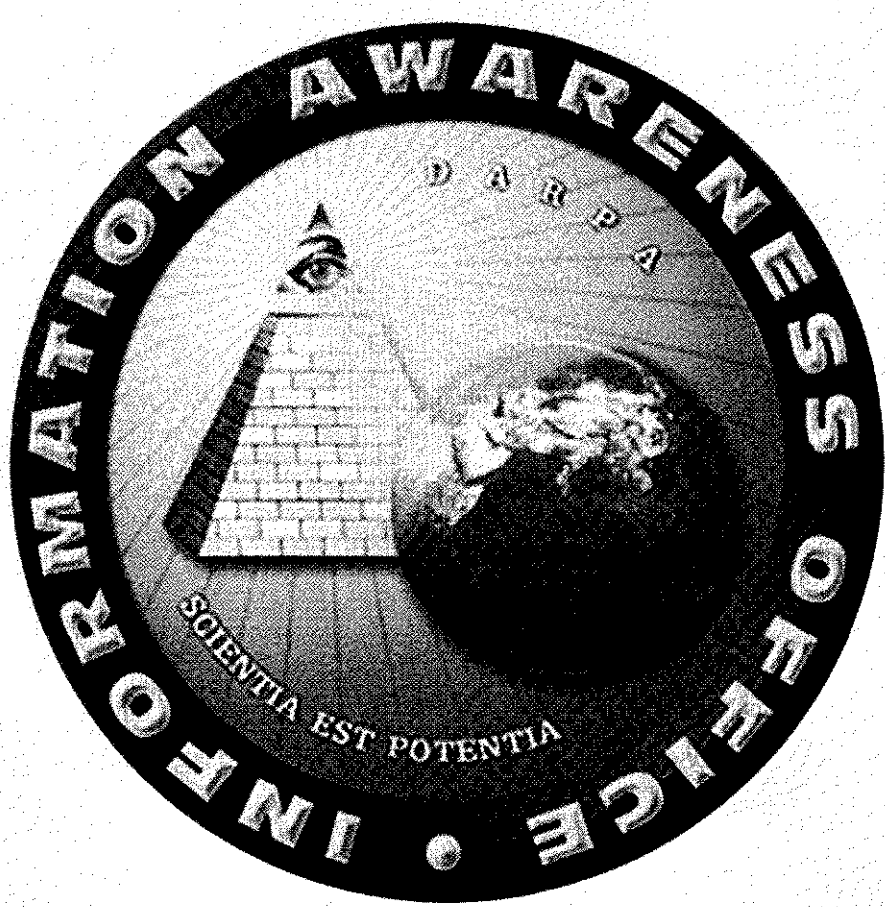
No Go Logo

Jesse Walker

SUPPOSE YOU'RE DEVISING a logo for a new wing of the Defense Advanced Research Projects Agency, an office charged with developing intelligence tools and integrating the government's existing surveillance networks. Suppose it has a vaguely sinister name—say, the Information Awareness Office—and that it's to be run by a former Iran-contra conspirator. What would your design be?

If you work for the actual Information Awareness Office, created earlier this year with one-time National Security Adviser John Poindexter at its helm, you'd depict a Masonic eye-in-a-pyramid blasting a sci-fi death ray across the globe. If you wanted to play on the fears of every paranoiac in the country, you couldn't do much better than the IAO's logo, on display at www.darpa.mil/iao. (That's where we got the low-resolution graphic to the right, after DARPA stonewalled our attempts to secure a high-resolution version. Hmmm...)



Another agency may be trying to outdo the IAO. The Patent and Trademark Office's symbol for homeland security is an eyeball floating behind a keyhole, with an upside-down flag in the background. If a dissident Web site put up a picture like that, it would be accused of fomenting panic.

Semiotically speaking, this is the most inept administration in years. Either that, or its art department is trying to tell us something.

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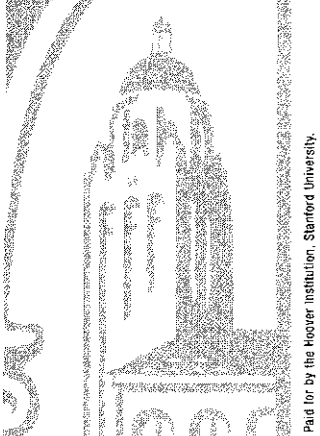
The Challenges of Charter Schools

Chester E. Finn Jr. is a distinguished visiting fellow, Hoover Institution; member, Hoover's Koret Task Force on K–12 Education; and president, Thomas B. Fordham Foundation.



Paid for by the Hoover Institution, Stanford University.

Charter schools are now ten years old, and the movement is still spreading. About 2,400 charter schools have been operating in 2001–2002. A handful of cities now find 15–20 percent of their kids enrolled in charters. Yet **some of the wind is going out of the charter schools' sails.** Six challenges are paramount.

First, we see too little leadership in the charter movement. The concept of charter schools was dismissed at the last national education summit on October 9–10, 2001, in New York. The Bush White House rarely mentions charters. Few governors tarry long on this subject—and many admit to frustration over "bad apples" in the charter barrel. There's no coherent national voice explaining this reform idea to Congress, the media, or other educators.

Second, although not large, the bad-apple problem is easily exploited by critics. Most states have a few charters that never should have been allowed to start and a few more that cannot sustain the pace. What to do? Too many states—instead of promptly replacing hapless schools with better ones—are slowing the whole charter enterprise and putting bureaucrats in charge of it. Because the top concern of bureaucrats is to fend off future problems, the red tape piles up.

Third, even without added rules and regulations, it is hard to start a charter school. The *New York Times* recently recounted an unsuccessful three-year effort by would-be charter school founders in the South Bronx, whose dream of starting an arts-oriented charter was stymied by state and city bureaucrats, facility woes, and a lack of start-up funds.

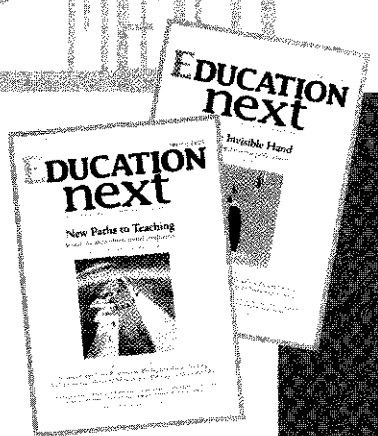
Fourth, charter enemies are relentless. Their favorite strategies are to keep numerical caps in place on the grounds that "this risky experiment hasn't proven itself" while persuading policymakers (in the name of "ensuring accountability" or "leveling the playing field") that charters must be subject to ever more of the same requirements as regular public schools.

Fifth, charter advocates have not been smart enough about accountability, probably because they're split on the subject. We find libertarians insisting that the marketplace is a sufficient accountability mechanism; dyed-in-the-wool public educators being swayed by "level playing field" claims even though responding to such claims often brings stultifying red tape; and people resisting state standards and tests for the same reasons that other educators resist them.

Finally, **the charter movement itself cannot decide whether it is a trade association obliged to defend every school that wears the charter label or an education reform movement responsible for ensuring that only good schools are so labeled.**

These challenges are worth meeting. The promise of charter schools remains bright. The *National Journal*'s Jonathan Rauch recently profiled Nueva Esperanza Academy, a charter school serving Philadelphia's Latino community and one of as many as fifty such schools being developed by the National Council of La Raza. The academy is bringing low-income high school dropouts back into education. The school's name means "New Hope," which is how many charter advocates see their movement. But hope alone won't get it successfully through another ten years.

— Chester E. Finn Jr.



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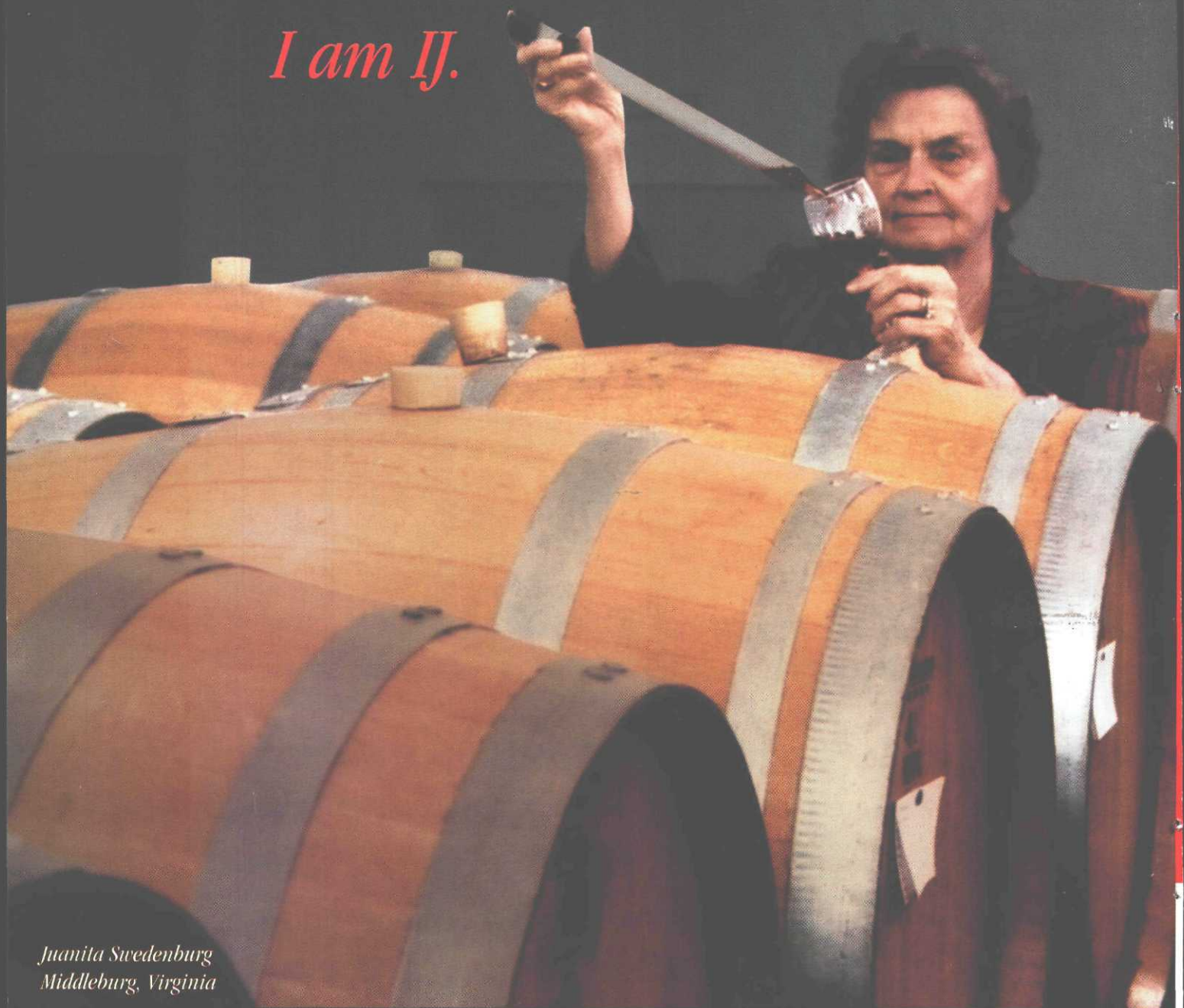

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